

ASSEMBLY BILL 1

May 13, 2002 – Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION, by request of Governor Scott McCallum. Referred to Committee on Natural Resources.

1 **AN ACT** *to repeal* 29.181 (3) and 29.559 (1r) (b); *to renumber* 29.307 and 29.559
2 (1r) (a); *to amend* 20.370 (5) (fq), 29.971 (7), 29.971 (11) and 167.31 (2) (d); and
3 *to create* 20.370 (5) (fs), 20.370 (5) (fv), 29.063, 29.307 (2), 29.307 (3), 29.335
4 and 167.31 (4) (bg) of the statutes; **relating to:** chronic wasting disease,
5 hunting animals from aircraft, feeding of wild animals for purposes other than
6 hunting, shooting a firearm or arrow from or across a highway, requiring a lapse
7 to the general fund, authorizing the extension of emergency rules, requiring the
8 exercise of rule-making authority, and making appropriations.

Analysis by the Legislative Reference Bureau

This bill does the following in relation to controlling chronic wasting disease in this state:

1. Provides funding of up to \$2,000,100 in fiscal year 2002–03, from the revenues from the wildlife damage surcharge collected on the sale of most hunting licenses, to manage, and conduct testing for, chronic wasting disease in cervids, a class which consists of all species of deer and elk.

2. Authorizes the department of natural resources (DNR) to supplement this funding by up to \$2,000,000 from segregated fund sources such as the conservation fund or the recycling fund. Of this amount, no more than \$1,000,000 may come from wildlife damage surcharge revenues.

3. Provides a portion of the funding specified above to the veterinary diagnostic laboratory for the purpose of testing cervids for chronic wasting disease.

The bill requires that DNR promulgate rules to regulate the recreational and supplemental feeding of wild animals for purposes other than hunting. The bill exempts any state or federal employee from the ban against shooting firearms or arrows across or from a highway or from hunting from an aircraft if the state or federal employee is acting in the course of his or her employment and if the employee is authorized by DNR to take animals in the wild for purposes of testing for disease or for removing diseased animals. These exemptions are further limited to hunting only animals that are located in a chronic wasting disease eradication zone as designated by DNR.

The provisions regarding the regulation and supplemental feeding, the shooting of firearms and arrows, and hunting from aircraft sunset on August 31, 2003, unless the standing committees for natural resources matters of each house of the legislature determine that in order to control the spread of disease it is necessary to continue these provisions.

Under current law, an emergency rule remains in effect for 150 days, except that the joint committee for review of administrative rules (JCRAR) may extend an emergency rule for a maximum of 120 additional days. This bill authorizes JCRAR to extend the department of agriculture, trade and consumer protection's emergency rule related to chronic wasting disease in cervids, which took effect on April 9, 2002, until September 1, 2003.

The bill lapses \$933,900 from the appropriation to the University of Wisconsin System for the veterinary diagnostic laboratory to the general fund.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

3		2001-02	2002-03
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4 **20.370 Natural resources, department of**

5 (5) CONSERVATION AIDS

6 (fs) Chronic wasting disease man-

7	agement	SEG A	-0-	2,000,100
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1 (fv) Chronic wasting disease man-
2 agement — supplemental funds SEG A -0- -0-

3 **SECTION 2.** 20.370 (5) (fq) of the statutes is amended to read:

4 20.370 (5) (fq) *Wildlife damage claims and abatement.* All moneys received
5 under ss. 29.181 (3), 29.559 (1r) (b), and 29.563 (13) and not appropriated under par-
6 pars. (fr), (fs), and (fv) and sub. (1) (Ls) to provide state aid for the wildlife damage
7 abatement program under s. 29.889 (5) (c) and the wildlife damage claim program
8 under s. 29.889 (7) (d), for county administration costs under s. 29.889 (2) (d), and
9 for payments under s. 29.89.

10 **SECTION 3.** 20.370 (5) (fs) of the statutes is created to read:

11 20.370 (5) (fs) *Chronic wasting disease management.* From the moneys
12 received under ss. 29.181, 29.559 (1r), and 29.563 (13), the amounts in the schedule
13 for the management of, and testing for, chronic wasting disease under s. 29.063.

14 **SECTION 4.** 20.370 (5) (fv) of the statutes is created to read:

15 20.370 (5) (fv) *Chronic wasting disease management — supplemental funds.*
16 The amounts in the schedule for the management of, and testing for, chronic wasting
17 disease under s. 29.063.

18 **SECTION 5.** 29.063 of the statutes is created to read:

19 **29.063 Management of chronic wasting disease.** The department may
20 manage, and provide funding to conduct testing for, chronic wasting disease in
21 cervids.

22 **SECTION 6.** 29.181 (3) of the statutes is repealed.

23 **SECTION 7.** 29.307 of the statutes is renumbered 29.307 (1).

24 **SECTION 8.** 29.307 (2) of the statutes is created to read:

1 29.307 (2) Notwithstanding sub. (1), a state or federal employee acting within
2 the scope of his or her employment may hunt an animal in the wild with the aid of
3 an aircraft if all of the following apply:

4 (a) The employee is authorized by the department to take the animal for the
5 purpose of testing for disease in animals or for the purpose of removing diseased
6 animals.

7 (b) The employee is hunting in an area designated by the department as a
8 chronic wasting disease eradication zone.

9 **SECTION 9.** 29.307 (3) of the statutes is created to read:

10 29.307 (3) Subsection (2) does not apply after August 31, 2003, unless the
11 standing committee for natural resources matters of each house of the legislature,
12 as designated by each presiding officer, determines by majority vote, on or before
13 August 31, 2003, that in order to control the spread of disease in animals sub. (2) shall
14 continue to apply after August 31, 2003. If the standing committees make this
15 determination, the chairperson of each of these standing committees shall promptly
16 notify the revisor of statutes of the committee's determination. Upon receipt of such
17 notification, the revisor shall publish a copy of the notification in the Wisconsin
18 Administrative Register.

19 **SECTION 10.** 29.335 of the statutes is created to read:

20 **29.335 Feeding wild animals for nonhunting purposes.** The department
21 shall promulgate rules to regulate the recreational and supplemental feeding of wild
22 animals for purposes other than hunting. Any rules promulgated under this section
23 do not apply after August 31, 2003, unless the standing committee for natural
24 resources matters of each house of the legislature, as designated by each presiding
25 officer, determines by majority vote, on or before August 31, 2003, that in order to

1 control the spread of disease in wild animals this section shall continue to apply after
2 August 31, 2003. If the standing committees make this determination, the
3 chairperson of each of these standing committees shall promptly notify the revisor
4 of statutes of the committee's determination. Upon receipt of such notification, the
5 revisor shall publish a copy of the notification in the Wisconsin Administrative
6 Register.

7 **SECTION 11.** 29.559 (1r) (a) of the statutes is renumbered 29.559 (1r).

8 **SECTION 12.** 29.559 (1r) (b) of the statutes is repealed.

9 **SECTION 13.** 29.971 (7) of the statutes is amended to read:

10 29.971 (7) For the violation of s. 29.307 (1), by a fine of not more than \$1,000
11 for the first violation and not more than \$2,000 for subsequent violations or
12 imprisonment for not more than 90 days, or both, and by a mandatory 3-year
13 revocation of all hunting, fishing, and trapping approvals. An aircraft used in the
14 violation is a public nuisance.

15 **SECTION 14.** 29.971 (11) of the statutes is amended to read:

16 29.971 (11) For hunting deer without the required approval, during the closed
17 season, with the aid of artificial light or with the aid of an aircraft, except as provided
18 in s. 29.307 (2), for the snaring of or setting snares for deer, or for the possession or
19 control of a deer carcass in violation of s. 29.055 or 29.347, by a fine of not less than
20 \$1,000 nor more than \$2,000 or by imprisonment for not more than 6 months or both.
21 In addition, the court shall order the revocation of all approvals issued to the person
22 under this chapter and shall prohibit the issuance of any new approval under this
23 chapter to the person for 3 years.

24 **SECTION 15.** 167.31 (2) (d) of the statutes, as affected by 2001 Wisconsin Act 8,
25 is amended to read:

1 167.31 (2) (d) Except as provided in sub. (4) (a), (bg), (cg), (e), and (g), no person
2 may discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or
3 across a highway or within 50 feet of the center of a roadway.

4 **SECTION 16.** 167.31 (4) (bg) of the statutes is created to read:

5 167.31 (4) (bg) 1. Subsection (2) (b), (c), and (d) does not apply to a state or
6 federal employee, acting within the scope of his or her employment, who is
7 authorized by the department of natural resources to take animals in the wild for the
8 purpose of testing for disease in animals or for the purpose of removing diseased
9 animals and who is hunting in an area designated by the department of natural
10 resources as a chronic wasting disease eradication zone.

11 2. This paragraph does not apply after August 31, 2003, unless the standing
12 committee for natural resources matters of each house of the legislature, as
13 designated by each presiding officer, determines by majority vote, on or before
14 August 31, 2003, that in order to control the spread of disease in animals subd. 1.
15 shall continue to apply after August 31, 2003. If the standing committees make this
16 determination, the chairperson of each of these standing committees shall promptly
17 notify the revisor of statutes of the committee's determination. Upon receipt of such
18 notification, the revisor shall publish a copy of the notification in the Wisconsin
19 Administrative Register.

20 **SECTION 17. Nonstatutory provisions.**

21 (1) PLAN. If the department of natural resources determines that there are
22 insufficient funds available under section 20.370 (5) (fs) of the statutes, as created
23 by this act, for the management of, and testing for, chronic wasting disease in cervids
24 during fiscal year 2002–03, the department may develop a plan, for submission to the
25 joint committee on finance for review, detailing the means by which the department

1 shall manage, and test for, chronic wasting disease in cervids. If the department
2 develops a plan under this subsection, the department shall recommend funding
3 sources and expenditures for implementing the plan. In making these
4 recommendations, the department may not do any of the following:

5 (a) Recommend the expenditure of funds from the general fund.

6 (b) Recommend the expenditure of more than \$2,000,000.

7 (c) Recommend the expenditure of more than \$1,000,000 from moneys received
8 under sections 29.181, 29.559 (1r), and 29.563 (13) of the statutes.

9 (2) JOINT COMMITTEE ON FINANCE REVIEW.

10 (a) If the cochairpersons of the joint committee on finance do not notify the
11 department of natural resources within 14 working days after the date of the
12 submittal of the plan under subsection (1) that the committee has scheduled a
13 meeting for the purpose of reviewing the plan, all of the following shall apply:

14 1. The department shall implement the plan.

15 2. If the plan specifies the expenditure of funds from a segregated fund other
16 than the conservation fund, the funds are transferred to the conservation fund.

17 3. The appropriation under section 20.370 (5) (fv) of the statutes, as created by
18 this act, is supplemented from the appropriation under section 20.865 (4) (u) of the
19 statutes by the amount specified under the plan.

20 (b) If, within 14 working days after the date of the submittal by the department
21 of natural resources, the cochairpersons of the joint committee on finance notify the
22 department that the committee has scheduled a meeting to review the plan, the
23 department may not implement the plan without approval of the committee. The
24 committee may disapprove or modify the plan. If the committee modifies the plan,
25 the committee may transfer funds to the conservation fund from another segregated

1 fund as is necessary to implement the plan. Notwithstanding section 13.101 (3) (a)
2 of the statutes, no finding is required to be made that an emergency exists before
3 transferring the funds under this paragraph.

4 (3) DEPARTMENT OF NATURAL RESOURCES POSITIONS. The authorized FTE positions
5 for the department of natural resources are increased by 3.0 SEG project positions,
6 to be funded from the appropriation under section 20.370 (5) (fs) of the statutes, as
7 created by this act, for the purpose of managing and testing for chronic wasting
8 disease.

9 (4) EMERGENCY RULES RELATING TO CHRONIC WASTING DISEASE IN CERVIDS.

10 (a) Notwithstanding section 227.24 (2) (a) of the statutes, the joint committee
11 for review of administrative rules may extend the effective period of emergency rules
12 promulgated by the department of agriculture, trade and consumer protection
13 relating to chronic wasting disease in cervids that took effect on April 9, 2002, for
14 periods specified by the committee and may grant any number of extensions, except
15 that the committee may not extend the effective period of the rules beyond
16 September 1, 2003.

17 (b) The department of agriculture, trade and consumer protection may amend
18 the emergency rules described in paragraph (a), while those rules are in effect, using
19 the procedure in section 227.24 of the statutes, and any amendment remains in effect
20 for the period provided under paragraph (a).

21 (5) VETERINARY DIAGNOSTIC LABORATORY.

22 (a) The department of natural resources shall expend, in fiscal year 2002–03,
23 a total of \$901,600 from the appropriations under section 20.370 (5) (fs) and (fv) of
24 the statutes, as created by this act, for the purpose of testing cervids for chronic
25 wasting disease by the veterinary diagnostic laboratory.

1 (b) The authorized FTE positions for the board of regents of the University of
2 Wisconsin System are increased by 6.0 PR positions, to be funded from the
3 appropriation under section 20.285 (1) (kg) of the statutes, for the purpose of testing
4 cervids for chronic wasting disease by the veterinary diagnostic laboratory.

5 **SECTION 18. Appropriation changes.**

6 (1) VETERINARY DIAGNOSTIC LABORATORY LAPSE. Notwithstanding section 20.001
7 (3) (c) of the statutes, on June 30, 2002, there is lapsed to the general fund \$933,900
8 from the appropriation account of the board of regents of the University of Wisconsin
9 System under section 20.285 (1) (je) of the statutes, as affected by the acts of 2001.

10 (END)