

2001 DRAFTING REQUEST

Senate Joint Resolution

Received: 12/13/2000

Received By: **dykmapj**

Wanted: **Soon**

Identical to LRB:

For: **Jim Baumgart (608) 266-2056**

By/Representing: **aide**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Constitutional Amendments
Nat. Res. - fish and game**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Right to hunt and fish

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dykmapj 12/13/2000	gilfokm 12/13/2000		_____			
/P1	dykmapj 12/20/2000	gilfokm 12/20/2000	jfrantze 12/14/2000	_____	lrb docadmin 12/14/2000		
/1			jfrantze 12/20/2000	_____	gretskl 12/20/2000	lrb docadmin 12/20/2000	

FE Sent For:

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Sent*

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1?	dykmapj	1/1-12/Kmg /13	12/14	12/14			

FE Sent For:

<END>

SOON

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
2001 SENATE JOINT RESOLUTION

D-NOTE

1 **To create** section 26 of article I of the constitution; **relating to:** the right of
2 individuals to fish, hunt, trap, and take game (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2001 legislature on first consideration, provides that individuals have the right to fish, hunt, trap, and take game subject only to reasonable restrictions as prescribed by law.

A constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

3 ***Resolved by the senate, the assembly concurring, That:***

4 **SECTION 1.** Section 26 of article I of the constitution is created to read:

5 [Article I] Section 26. Individuals have the right to fish, hunt, trap, and take
6 game subject only to reasonable restrictions as proscribed by law.

7 **SECTION 2. Numbering of new provision.** The new section 26 of article I of
8 the constitution created in this joint resolution shall be designated by the next higher
9 open whole section number in that article if, before the ratification by the people of

1 the amendment proposed in this joint resolution, any other ratified amendment has
2 created a section 26 of article I of the constitution of this state. If one or more joint
3 resolutions create a section 26 of article I simultaneously with the ratification by the
4 people of the amendment proposed in this joint resolution, the sections created shall
5 be numbered and placed in a sequence so that the sections created by the joint
6 resolution having the lowest enrolled joint resolution number have the numbers
7 designated in that joint resolution and the sections created by the other joint
8 resolutions have numbers that are in the same ascending order as are the numbers
9 of the enrolled joint resolutions creating the sections.

10 ***Be it further resolved, That*** this proposed amendment be referred to the
11 legislature to be chosen at the next general election and that it be published for 3
12 months previous to the time of holding such election.

13 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

-1510/PJ
LRB-1344/P1dm
PJD:kmg:km

December 6, 2000

This is 1997 SJR 36.

Here are the issues that I see with this draft. The basic question is does "subject only to reasonable restrictions as prescribed by law" cover these situations?

1. 1997 AJR 11, relating to the right to keep and bear arms, was ratified by the people. It creates section 25 of article I of the Constitution to provide that the people have the right to keep and bear arms for "...hunting, recreation or any other lawful purpose." Do you want this amendment to start out, like that one, "The people have the right"?

2. Does this amendment permit commercial fishing in places and at times and in permitted type and amount of fish that are not today permitted, thereby leaving less for noncommercial fishing?

3. Does this amendment eliminate or reduce any existing fees or prohibit restrictions on lakes that permit keeping only trophy fish?

4. Does this amendment prohibit any existing restrictions on felons' rights to fish, hunt, trap, and take game or on out-of-state residents that are different from those on residents of Wisconsin?

5. Does this amendment prohibit the state from revoking a hunting, fishing, or trapping license for nonpayment of taxes or child support?

6. Does this amendment affect private property rights in regard to trespass and access to fish and game?

7. If the amendment grants rights, who provides them? Individuals, the state, or local governments, or corporations?

8. Does this amendment require the state and local governments to open to fishing, hunting, and trapping parks, wildlife, and natural areas now closed to fishing, hunting, and trapping?

9. Does this amendment override local safety regulations?

10. Does this amendment impact the common law under which the state has title to all wild game until possessed by capture? Does it give property owners rights in wild game on their land?

11. Does this amendment impact Indian fishing and hunting rights obtained under treaty?

12. Does this amendment eliminate DNR's rule-making authority in this area?

Atty. Peter J. Dykman
General Counsel
Phone: (608) 266-7098
E-mail: peter.dykman@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1510/P1dn
PJD:kmg:jf

December 14, 2000

This is 1997 SJR 36.

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1. 1997 AJR 11, relating to the right to keep and bear arms, was ratified by the people. It creates section 25 of article I of the Constitution to provide that the people have the right to keep and bear arms for "...hunting, recreation or any other lawful purpose." Do you want this amendment to start out, like that one, "The people have the right"?

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Atty. Peter J. Dykman

General Counsel

Phone: (608) 266-7098

E-mail: peter.dykman@legis.state.wi.us

Dykman, Peter

From: Henderson, Patrick
Sent: Wednesday, December 20, 2000 9:13 AM
To: Dykman, Peter
Subject: LRB 1510 - Constitutional amendment for hunt and fish, etc.

Thank you for your help in drafting this legislation. In regards to your drafting instructions, Senator Baumgart would like to keep everything the same with the exception of your 1st question. Jim agrees that we should start the resolution with "The people have the right..."

I hate to ask but Jim wants to introduce this right away so if we could get it back as soon as possible that would be appreciated. Thank you for your attention to this matter. If you have any further questions, please feel free to give me a call.

Pat Henderson
Office of Sen. Baumgart
6-2056

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2001 SENATE JOINT RESOLUTION

judicial review

soon

the people

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7 **SECTION 2. Numbering of new provision.** The new section 26 of article I of
8 the constitution created in this joint resolution shall be designated by the next higher
9 open whole section number in that article if, before the ratification by the people of

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11 legislature to be chosen at the next general election and that it be published for 3
12 months previous to the time of holding such election.

13 (END)



2001 SENATE JOINT RESOLUTION

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2 hunt, trap, and take game (first consideration).

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