

2003 DRAFTING REQUEST

Bill

Received: **03/06/2003**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **John O'Brien**

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

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Agriculture - animals**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Reciprocity relating to bait and farm-raised 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>
/?							State
/1	btradewe 03/27/2003	wjackson 03/28/2003	chaskett 03/28/2003		sbasford 03/28/2003	lemery 04/01/2003	

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Att in fro.

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/?	btradewe	1 WLj 3/28	1 cph 3/28	17/08 3/28			

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section. 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 03-06-03

Legislator, agency, or other person requesting this draft Senator Dale Schueler

Person submitting request (name and phone number) John O'Brien 6-0703

Persons to contact for questions about this draft (names and phone numbers) SAME ↑

Describe the problem, including any helpful examples. How do you want to solve the problem?

See ATTACHED

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes:

Anyone who asks?
Any legislator?

YES NO
YES NO

Only the following persons _____

Do you consider this request urgent? YES NO

If yes, please indicate why

Time Sensitive

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO

Certain states bordering Wisconsin restrict by rule or law the ability of Wisconsin Bait Dealers and Wisconsin Fish Farmers from plying their trade in those states.

Minnesota, does not allow non-resident bait dealers or fish farmers to transport or sell their product in that state.

This language, which is a modification of the current reciprocity on Malt Beverages 139.05 (7) (a) seeks to remedy this situation.

I am not certain about legality of the "penalty" which I have included.

Because current definitions of Bait and Farm Raised Fish are vague, we would prefer that the definitions below be included in the draft.

Call me if you have questions, comments or suggestions.

*use stat.
def. for now*

**John O'Brien, Staff to Senator Dale Schultz
266 -0703**

Fishing Bait Farm Raised Fish Reciprocity.

If the laws of another jurisdiction prohibit a Licensed Wisconsin Bait Dealer or Registered Fish Farmer from doing the business of selling or transporting fishing bait, or farm raised fish in that jurisdiction, no similar association, bait dealer, harvester or supplier organized under the laws of that jurisdiction may be authorized to do the business of selling or transporting fishing bait in this state. If the laws of another jurisdiction require the posting of securities or impose other additional requirements as a condition of permitting an association chartered by this state to do the business of selling fishing bait or farm raised fish in that jurisdiction, the department may impose similar requirements on an association organized under the laws of that jurisdiction before issuing the association a certificate of authority to do business in this state.

*or farm-raised
fish*

Penalty, Whoever intentionally violates any provision of this regulation, shall be subject to a fine of \$1,000 for each violation. All fines imposed and collected under this section shall be transmitted to the Wisconsin Department of Agriculture Trade & Consumer Protection to be used solely for the purposes of enforcing this or other wild fish health regulations.

For the purposes of this statute, "Fishing Bait" means any live, dead or preserved species, of frog, crayfish, minnow, shrimp, night crawlers, worms, grubs, leeches, insects, insect larvae, suckers or rough fish used for fishing or stocking purposes.

For the purposes of this statute, "Farm-raised fish" means any species of fish primarily raised in an aquaculture facility or on a fish farm, for use in propagation, stocking, or as a food product or for use as bait.

Tradewell, Becky

From: OBrien, John
Sent: Tuesday, March 11, 2003 1:26 PM
To: Tradewell, Becky
Subject: Bait Dealer reciprocity

Becky,

Related to our conversation of yesterday regarding fines.

I would like to include the forfeiture of \$1000,00 but in addition, I would like your advice on also including an assesment similar to s 29.987 Natural resources assessments.

The assesment could be a % of the forfeiture say 50%. The assesment would be earmarked for DATCP Fish Health Programs.

John O'Brien, Committee Clerk
Senate Agriculture, Financial institutions and Insurance.
Senator Dale Schultz, Chair.
John.OBrien@legis.state.wi.us
(800) 978 8008 (Toll Free In State Only)
(608) 26 6-0703

3/12- Add assessment

Minnesota Statutes 2002, Table of ChaptersTable of contents for Chapter 97C**97C.515 Imported minnows.**

Subdivision 1. **General prohibition.** A person may not bring live minnows into the state except as provided in this section.

Subd. 2. **Permit for transportation.** A person may transport minnows through the state with a permit from the commissioner. The permit must state the name and address of the person, the number and species of minnows, the point of entry into the state, the destination, and the route through the state. The permit is not valid for more than 12 hours after it is issued.

Subd. 3. **Use in home aquariums allowed.** A person may bring live minnows into the state for home aquariums.

Subd. 4. **Private fish hatchery or aquatic farm.** A person with a private fish hatchery or aquatic farm license may transport minnows from contiguous states to the private fish hatchery or aquatic farm, provided the minnows are used for processing or feeding hatchery fish. The commissioner may require inspection of minnows transported from outside the state.

Subd. 5. **Special permits.** (a) The commissioner may issue a special permit, without a fee, to allow a person with a private fish hatchery license to import minnows from other states for export. A permit under this subdivision is not required for importation authorized under subdivision 4.

(b) An applicant for a permit under this subdivision shall submit to the commissioner sufficient information to identify potential threats to native plant and animal species and an evaluation of the feasibility of the proposal. The permit may include reasonable restrictions on importation, transportation, possession, containment, and disposal of minnows to ensure that native species are protected. The permit may have a term of up to two years and may be modified, suspended, or revoked by the commissioner for cause, including violation of a condition of the permit.

HIST: 1986 c 386 art 3 s 49; 1988 c 588 s 13; 1993 c 226 s 17,18; 1993 c 269 s 27

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Minnesota Statutes 2002, Table of Chapters

Table of contents for Chapter 97C

97C.341 Certain fish prohibited for bait.

A person may not use live minnows imported from outside of the state, game fish, goldfish, or carp for bait.

HIST: 1986 c 386 art 3 s 30

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Minnesota Statutes 2001, Table of ChaptersTable of contents for Chapter 17**17.4985 Transportation of aquatic life.**

Subdivision 1. **Requirements for importation, transportation within the state, or stocking of fish.** Except as provided in subdivision 3, a licensee may not import aquatic life into the state, transport aquatic life within the state, or stock waters of the state with aquatic life without first obtaining a bill of lading or transportation permit from the commissioner, with disease certification, if applicable.

Subd. 2. **Bill of lading.** (a) A state-issued bill of lading is required for:

(1) intrastate transportation of aquatic life other than salmonids and catfish between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the species being transported if the aquatic life is being transported into a watershed where it is not currently present, if walleyes whose original source is south of marked state highway No. 210 are being transported to a facility north of marked state highway No. 210, or if the original source of the aquatic life is outside Minnesota and contiguous states; and

(2) stocking of waters other than public waters with aquatic life other than salmonids and catfish.

(b) When aquatic life is transported under paragraph (a), a copy of the bill of lading must be submitted to the regional fisheries manager at least 72 hours before the transportation.

(c) For transportation and stocking of waters that are not public waters:

(1) a bill of lading must be submitted to the regional fisheries manager 72 hours before transporting fish for stocking;

(2) a bill of lading must be submitted to the regional fisheries manager within five days after stocking if the waters to be stocked are confirmed by telecopy or telephone prior to stocking by the regional fisheries office not to be public waters; or

(3) a completed bill of lading may be submitted to the regional fisheries office by telecopy prior to transporting fish for stocking. Confirmation that the waters to be stocked are not public waters may be made by returning the bill of lading by telecopy or in writing, in which cases additional copies need not be submitted to the department of natural resources.

(d) Bill of lading forms may only be issued by the department of natural resources in St. Paul, and new bill of lading forms may not be issued until all previously issued forms have been returned.

Subd. 3. **Exemptions for transportation permits and bills of lading.** (a) A state-issued bill of lading or transportation permit is not required by an aquatic farm licensee for importation, transportation, or export for the following:

(1) minnows taken under an aquatic farm license in this state and transported intrastate;

(2) aquarium or ornamental fish including goldfish and tropical, subtropical, and saltwater species that cannot survive in the waters of the state, which may be imported or transported if accompanied by shipping documents;

(3) fish or fish eggs that have been processed for use as food, bait, or other purposes unrelated to fish propagation;

(4) live fish from a licensed aquatic farm, which may be transported directly to an outlet for processing or for other food purposes if accompanied by shipping documents;

(5) fish being exported if accompanied by shipping documents;

(6) sucker eggs, sucker fry, or fathead minnows transported intrastate for bait propagation or feeding of cultural aquatic life;

(7) species of fish that are found within the state used in connection with public shows, exhibits, demonstrations, or fishing pools for periods not exceeding 14 days;

(8) fish being transported through the state if accompanied by shipping documents; or

(9) intrastate transportation of aquatic life between or within licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the species being transported, except where required in subdivision 2 and except that salmonids and catfish may only be transferred or transported intrastate without a transportation permit if they had no record of bacterial kidney disease at the time they were imported into the state and if they have had a fish health inspection within the preceding year that has shown no certifiable diseases to be present.

Aquatic life being transferred between licensed private fish hatcheries, aquatic farms, or aquarium facilities must be accompanied by shipping documents and salmonids and catfish being transferred or transported intrastate without a transportation permit must be accompanied by a copy of their most recent fish health inspection.

(b) Shipping documents required under paragraph (a) must show the place of origin, owner or consignee, destination, number, and species.

Subd. 4. **Transportation permit requirements.** A transportation permit is required for all importation,

transportation, or stocking of private aquatic life not covered by subdivision 2 or exempted in subdivision 3. A transportation permit may be used for multiple shipments within the 30-day term for the permit if the source and the destination remains the same. Transportation permits, which may authorize importation or stocking of public waters, may be issued through department of natural resources regional offices or the St. Paul office, and must be obtained prior to shipment.

Subd. 5. **Permit application.** An application for a transportation permit must be made on forms provided by the commissioner. An incomplete application must be rejected. An application for a transportation permit for salmonids and catfish, their eggs, or sperm must be accompanied by certification that the source of the eggs or sperm are free of certifiable diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may be imported, transported, or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease may be imported, transported, or stocked into areas where the disease has been previously introduced. A copy of the transportation permit showing the date of certification inspection must accompany the shipment of fish while in transit and must be available for inspection by the commissioner. By 14 days after a completed application is received, the commissioner must approve or deny the importation permits as provided in this section.

Subd. 6. **Vehicle identification.** (a) A vehicle used by a licensee for transporting aquatic life must be identified with the licensee's name and town of residence as it appears on the license and the license number.

(b) A vehicle used by a licensee must have identification displayed so that it is readily visible from either side of the vehicle in letters and numbers not less than 2-1/2 inches high and with a three-eighths inch wide stroke. Identification may be permanently affixed to vehicles or displayed on removable plates or placards placed on opposite doors of the vehicle or on the tanks carried on the vehicle.

(c) An application to license a vehicle for minnow transport or export or for use as a fish vendor that is received by the commissioner is a temporary license until it is approved or denied.

HIST: 1992 c 566 s 5; 1993 c 226 s 6,7; 1996 c 410 s 10,11

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Subd. 42. **Resident.** "Resident" means: (1) an individual who is a citizen of the United States or a resident alien, and has maintained a legal residence in the state at least the immediately preceding 60 days; (2) a nonresident under the age of 21 who is the child of a resident; (3) a domestic corporation; or (4) a foreign corporation authorized to do business in the state that has conducted a licensed business at a location within the state for at least ten years.

not sell walleye fry for less than fair market value, defined as the average price charged by private walleye fry wholesalers located in Minnesota.

Subd. 6. **Nonpublic records.** Information on production, harvest, and sales of aquatic life by a private fish hatchery is nonpublic information.

HIST: 1986 c 386 art 3 s 20; 1987 c 318 s 5-7; 1987 c 404 s 134; 1988 c 588 s 11,12; 1997 c 226 s 37,38

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minnow dip nets of any type or description in inland trout streams or tributary spring ponds. During the open trout season, people who do not possess a bait dealer's license can't use more than three minnow traps to remove minnows from trout streams.

Bait minnows may be taken, where allowed, by the following methods only:

- Hook and line.
- With seines no more than 35 feet long with a mesh no larger than one-half inch stretch measure in inland waters. Fifty-foot lengths of seine may be used in Minnesota and Iowa boundary waters.
- With dip nets no more than eight feet in diameter or square.
- With traps no more than 24 inches long and 16 inches in diameter or square with a throat measuring one-and-a-half inches or less. All traps must bear their owner's name and address and be emptied at least once every 48 hours (once every 24 hours on trout streams). On Minnesota and Iowa boundary waters, minnows must be removed from traps at least once a day from one hour before sunrise to one hour after sunset.

Motor Trolling

"Motor trolling" is trailing a lure, bait, or similar device used to attract or catch fish from a boat while being propelled (forwards or backwards) by a motor or a sail or while being towed by a boat being propelled by a motor or sail. Motor trolling is illegal except in some counties and waters as listed in the section titled **Special Regulations - Listed by County**, beginning on p. 17. Casting and immediate retrieval of a bait or lure while positioning a boat is not trolling. "Backtrolling" is only legal in waters where motor trolling is allowed. "Position fishing" is fishing from a boat where the fishing line extends vertically into the water while the boat is maneuvered (forwards or backwards) by a motor used to position the boat over underwater structure. Position fishing is allowed statewide in all waters.

Native American Reservations

Native American reservations in Wisconsin are governed by a unique blend of federal, state, and tribal law. You should find out about current tribal policies for natural resources use at each tribal headquarters before entering a reservation to hunt or fish. Failure to do so may place you in conflict with the law and subject you to enforcement action.

Panfish

The term "panfish" is defined as any of the following species: bluegill, pumpkinseed, black and white crappie, yellow perch, green sunfish, warmouth, and orangespotted sunfish.

Public Access

Many public fishing piers and boarding docks are now wheelchair-accessible. To receive information regarding barrier-free public access sites on Wisconsin waters, contact your nearest DNR service center. Each service center has a copy of *Fishing and Boating Access for Everyone*. Copies of individual location maps with descriptions of the amenities available at that site can be provided to you. This information may be especially useful for anglers with disabilities and others looking for good shorefishing opportunities.

Record Fish

If you think you or someone else has caught a fish that may be a state record, here's what to do:

- don't clean or freeze the fish.
- keep the fish cool—preferably on ice.
- get the fish weighed as soon as possible on a certified scale (found in grocery, hardware stores, etc.) and witnessed by an observer.

- contact the nearest DNR office to get the fish species positively identified and to find out whether the fish is a state record.

For a complete list of Wisconsin's record fish, contact any DNR Service Center or write to or call: WDNR, Bureau of Fisheries Management and Habitat Protection, FH/3, P.O. Box 7921, Madison, WI 53707, (608) 267-9426.

Wisconsin's Hook and Line Record Fish

(For a complete list contact any DNR office)

Species	Weight	Date caught	Location caught
Bass, Largemouth	11 lbs. 3 oz.	10/12/40	Lake Ripley, Jefferson Co.
Bass, Smallmouth	9 lbs. 1 oz.	6/21/50	Indian Lake, Oneida Co.
Bass, Rook	2 lbs. 15 oz.	6/2/90	Shadow Lake, Waupaca Co.
Bass, Hybrid Striped	13 lbs. 14.2 oz.	03/16/02	Lake Columbia, Columbia Co.
Bass (White)	4 lbs. 6 oz.	9/24/77	Okauchee Lake, Waukesha Co.
Bluegill	2 lbs. 9.8 oz.	8/2/95	Green Bay, Brown Co.
Bigmouth Buffalo	54 lbs. 0oz.	06/10/88	Burlingame Lake, Burnett Co.
Bullhead, Black	5 lbs. 8 oz.	9/2/89	Big Falls Flowage, Rusk Co.
Bullhead, Brown	3 lbs. 12 oz.	7/31/72	Nelson Lake, Sawyer Co.
Bullhead, Yellow	3 lbs. 5 oz.	6/6/83	Nelson Lake, Sawyer Co.
Carp, Common	57 lbs. 2 oz.	8/28/66	Lake Wisconsin, Columbia Co.
Catfish, Channel	44 lbs. 0 oz.	1962	Wisconsin River, Columbia Co.
Catfish, Flathead	74 lbs. 5 oz.	3/30/01	Mississippi River, Vernon Co.
Crappie, Black	4 lbs. 8 oz.	8/12/67	Gile Flowage, Iron Co.
Crappie, White	3 lbs. 2 oz.	01/08/01	Black River, Clark Co.
Drum (Sheepshead)	35 lbs. 4 oz.	08/29/92	Mississippi River, Crawford Co.
Muskellunge	69 lbs. 11 oz.	10/20/49	Chippewa Flowage, Sawyer Co.
Muskellunge, Tiger	51 lbs. 3 oz.	7/16/19	Lake Vieux Desert, Vilas Co.
Northern Pike	38 lbs. 0 oz.	8/6/52	Lake Puckaway, Green Lake Co.
Perch, Yellow	3 lbs. 4 oz.	1954	Lake Winnebago, Winnebago Co.
Pumpkinseed	1 lb. 1 oz.	6/17/97	Schmidt Pond, Ozaukee Co.
Salmon, Coho	26 lbs. 1.9 oz.	8/21/99	Lake Michigan, Milwaukee Co.
Salmon, Chinook	44 lbs. 15 oz.	7/19/94	Lake Michigan, Door Co.
Sauger	5 lbs. 13 oz.	11/08/88	Lake Wisconsin, Columbia Co.
Sturgeon, Lake	170 lbs. 10 oz.	9/22/79	Yellow Lake, Burnett Co.
Sturgeon, Shovelnose	7 lbs. 5 oz.	9/7/98	Mississippi River, Vernon Co.
Sunfish, Green	1 lb. 9 oz.	8/23/67	Wind Lake, Racine Co.
Trout, Brook (inland)	9 lbs. 15 oz.	9/02/44	Prairie River, Lincoln Co.
Trout, Brook (outlying)	10 lbs. 1 oz.	6/8/99	Lake Michigan, Ozaukee Co.
Trout, Brown (inland)	18 lbs. 6 oz.	5/07/84	Lake Geneva, Walworth Co.
Trout, Brown (outlying)	35 lbs. 1.9 oz.	9/08/96	Lake Michigan, Kewaunee Co.
Trout, Lake (inland)	35 lbs. 4 oz.	6/01/57	Green Lake, Green Lake Co.
Trout, Lake (outlying)	47 lbs. 0 oz.	9/09/46	Lake Superior, Bayfield Co.
Trout (Rainbow)	27 lbs. 2 oz.	7/26/97	Lake Michigan, Kewaunee Co.
Walleye	18 lbs. 0 oz.	9/16/33	High Lake, Vilas Co.

Minnesota Statutes 2002, Table of ChaptersTable of contents for Chapter 97A**97A.551 Transportation of fish.**

Subdivision 1. Repealed, 1987 c 149 art 1 s 54

Subd. 2. **Fish transported through state.** A person may not transport game fish taken in another state or country through the state during the closed season or in excess of the possession limit unless the fish are:

(1) transported by common carrier; or

(2) tagged, sealed, or marked as prescribed by the commissioner.

Subd. 3. **Shipping fish.** A person that has a license to take fish may make three shipments of fish in a license year to any person within or out of the state after obtaining a permit for each shipment from the commissioner. A shipment may not contain more than a possession limit of one species of fish per licensee.

Subd. 4. **Walleye; northern pike.** Walleye and northern pike may be possessed, transported, or shipped in a dressed or undressed condition.

Subd. 5. **Preparation and packing of fish for transportation.** The commissioner may adopt rules for the preparation and packing of fish for transportation.

HIST: 1986 c 386 art 1 s 81; 1987 c 149 art 1 s 39; 1993 c 185 s 1; 1993 c 231 s 37

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Minnesota Statutes 2002, Table of ChaptersTable of contents for Chapter 97C**97C.211 Private fish hatcheries.**

Subdivision 1. **License required.** A person may not operate a private fish hatchery without a private fish hatchery license. A private fish hatchery is a facility for raising fish, including minnows, for sale, stocking waters, angling, or processing. A private fish hatchery license is valid for five years but must be renewed annually.

Subd. 2. **Rules for operation.** The commissioner shall prescribe rules that allow a person to maintain and operate a private fish hatchery to raise and dispose of fish. The commissioner shall establish and assess a fee to cover the cost of inspection and disease certification of private hatcheries.

Subd. 2a. **Acquisition of fish.** (a) A private fish hatchery may not obtain fish outside of the state unless the fish or the source of the fish are approved by the commissioner. The commissioner may apply more stringent requirements to fish or a source of fish from outside the state than are applied to fish and sources of fish from within the state. The commissioner must either approve or deny the acquisition within 30 days after receiving a written request for approval. Minnows acquired must be processed and not released into public waters, except as provided in section 97C.515, subdivision 4. A request may be for annual acquisition.

(b) If the commissioner denies approval, a written notice must be submitted to the applicant stating the reasons for the denial and the commissioner must:

(1) designate approved sources to obtain the desired fish or fish eggs; or

(2) sell the fish or fish eggs from state fish hatcheries at fair market value.

Subd. 3. **Fishing license not required for persons to take fish.** A person may take fish by angling without a fishing license at a licensed private fish hatchery or an artificial pool containing only fish purchased from a private fish hatchery, if the operator of the hatchery or pool furnishes each person catching fish a certificate prescribed by the commissioner. The certificate must state the number and species of the fish caught and other information as prescribed by the commissioner. A person without a fishing license may possess, ship, and transport within the state the fish caught in the same manner as fish taken by a resident with a fishing license.

Subd. 4. **License required to take sucker eggs.** A person may not take sucker eggs from public waters for a private fish hatchery without a license to do so.

Subd. 5. **Price of walleye fry.** The commissioner may

Minnesota - Aquatic farm 17,4984

Transportation - 17,4985

Generally a licensee may not bring aquatic life into the state, transport within the state, or stock without first obtaining a bill of lading or transportation permit from the commissioner with disease cert., if applicable

bill of lading from farms from DNR

Not needed for fish being transported through the state

Same w. private fish hatcheries - 97C.211 subd. 2a.

Exception for minnows ^{from} outside of state = 97C.515. can get a permit to import them for export

Minnesota Statutes 2002, Table of ChaptersTable of contents for Chapter 97C**97C.501 Minnow licenses required.**

Subdivision 1. **Minnow retailers.** (a) A person may not be a minnow retailer without a minnow retailer license except as provided in subdivisions 2, paragraph (d), and 3. A person must purchase a minnow retailer license for each minnow retail outlet operated, except as provided by subdivision 2, paragraph (d).

(b) A minnow retailer must obtain a minnow retailer's vehicle license for each motor vehicle used by the minnow retailer to transport more than 12 dozen minnows to the minnow retailer's place of business, except as provided in subdivision 3. A minnow retailer is not required to obtain a minnow retailer's vehicle license if minnows are being transported by common carrier and information is provided that allows the commissioner to find out the location of the shipment in the state.

Subd. 2. **Minnow dealers.** (a) A person may not be a minnow dealer without a minnow dealer license except as provided in subdivision 3.

(b) A minnow dealer must obtain a minnow dealer's vehicle license for each motor vehicle used to transport minnows. The serial number, motor vehicle license number, make, and model must be on the license. The license must be conspicuously displayed in the vehicle.

(c) A minnow dealer may not transport minnows out of the state without an exporting minnow dealer license. A minnow dealer must obtain an exporting minnow dealer's vehicle license for each motor vehicle used to transport minnows out of the state. The serial number, motor vehicle license number, make, and model must be on the license. The license must be conspicuously displayed in the vehicle.

(d) A person with a minnow dealer's license may sell minnows at one retail outlet. A minnow dealer must obtain a minnow retailer license for each additional retail outlet operated. A minnow dealer operating a retail outlet under a minnow dealer's license must list the following information for the retail outlet: name of the business; city; state; zip code; and legal description or fire number. The retail outlet name and location may be changed by making application to the commissioner.

Subd. 3. **License exemption for minors selling leeches.**

A resident under age 18 may take leeches, sell leeches at retail, and transport leeches without a minnow retailer or dealer license.

Subd. 4. **Nonresident minnow haulers.** (a) A nonresident may not transport minnows in a motor vehicle without

an exporting minnow hauler license.

(b) A nonresident must obtain an exporting minnow hauler's vehicle license for the motor vehicle used to transport minnows. The serial number, motor vehicle license number, make, and model must be on the license. The license must be conspicuously displayed in the vehicle.

(c) Only one nonresident motor vehicle license may be issued to an exporting minnow hauler.

HIST: 1986 c 386 art 3 s 46; 1990 c 502 s 4; 1997 c 216 s 89; 2000 c 495 s 42,43

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Subd. 29. **Minnows.** "Minnows" means: (1) members of the minnow family, Cyprinidae, except carp and goldfish; (2) members of the mudminnow family, Umbridae; (3) members of the sucker family, Catostomidae, not over 12 inches in length; (4) bullheads, ciscoes, lake whitefish, goldeyes, and mooneyes, not over seven inches long; and (5) leeches.

Subd. 30. **Minnow dealer.** "Minnow dealer" means a person taking minnows for sale, buying minnows for resale, selling minnows at wholesale, or transporting minnows for sale.

Subd. 31. **Minnow retailer.** "Minnow retailer" means a person selling minnows at retail from an established place of business.

SOON (m 3/27)

RCT./.....

Wlj

2003 BILL

Note

GEN

1 AN ACT ...; relating to: bringing bait or farm-raised fish into this state, selling
 2 farm-raised fish or bait in this state, granting rule-making authority, making
 3 an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) issues bait dealer licenses that authorize persons to sell minnows, frogs, and crayfish for fishing purposes. The Department of Agriculture, Trade and Consumer Protection (DATCP) issues registrations to persons operating fish farms. A person may not bring fish or fish eggs into this state for the purpose of introduction into the waters of the state, of use as bait, or of rearing in a fish farm unless the person has an annual permit issued by DATCP. A person may not bring fish or fish eggs of a species that is not native to this state into this state for those purposes without a permit from DNR.

Under this bill, if the laws of another jurisdiction prohibit a bait dealer licensed by DNR or a fish farmer registered by DATCP from bringing a type of bait into that jurisdiction from this state for sale for fishing purposes or prohibit a person from using for fishing purposes in that jurisdiction a type of bait obtained from a registered fish farmer or licensed bait dealer, then bait dealers and fish farmers from that jurisdiction may not bring that type of bait into Wisconsin for sale for fishing purposes and no person may bring into Wisconsin for fishing purposes that type of bait obtained from a bait dealer or fish farmer from that jurisdiction.

Also under this bill, if another jurisdiction imposes restrictions on bait dealers licensed by DNR or fish farmers registered by DATCP as a condition of transporting

BILL

or selling bait or farm-raised fish in that jurisdiction that differ from the requirements that this state imposes on bringing fish or fish eggs into this state, then DATCP may promulgate rules imposing similar requirements on that jurisdiction's bait dealers and fish farmers as a condition of transporting or selling bait or farm-raised fish in this state.

A person who violates a prohibition or requirement established under this bill is subject to a forfeiture (a civil penalty) of not more than \$1,000 and an assessment equal to 50% of the forfeiture. The assessment is appropriated to DATCP for fish health activities.

For further information see the *state* 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.** 20.115 (2) (i) of the statutes is created to read:

2 20.115 (2) (i) *Fish health activities.* All moneys received from the bait and fish
3 reciprocity assessment under s. 95.62 (5) for activities related to fish health.

4 **SECTION 2.** 59.25 (3) (f) 2. of the statutes is amended to read:

5 59.25 (3) (f) 2. For all court imposed fines and forfeitures required by law to be
6 deposited in the state treasury, the amounts required by s. 757.05 for the penalty
7 assessment surcharge, the amounts required by s. 165.755 for the crime laboratories
8 and drug law enforcement assessment, the amounts required by s. 167.31 (5) for the
9 weapons assessment, the amounts required by s. 973.045 for the crime victim and
10 witness assistance surcharge, the amounts required by s. 938.34 (8d) for the
11 delinquency victim and witness assistance surcharge, the amounts required by s.
12 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by
13 s. 961.41 (5) for the drug abuse program improvement surcharge, the amounts
14 required by s. 100.261 for the consumer protection assessment, the amounts
15 authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the domestic abuse
16 assessment, the amounts required by s. 253.06 (4) (c) for the enforcement assessment

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1 under the supplemental food program for women, infants and children, the amounts
2 required by s. 349.04 for the truck driver education assessment, the amounts
3 required by ss. 346.177, 346.495 and 346.65 (4r) for the railroad crossing
4 improvement assessment, the amounts required by s. 346.655 (2) (a) and (b) for the
5 driver improvement surcharge, the amounts required by s. 102.85 (4) for the
6 uninsured employer assessment, the amounts required by s. 299.93 for the
7 environmental assessment, the amounts required by s. 29.983 for the wild animal
8 protection assessment, the amounts required by ss. 29.987 and 169.46 (1) for the
9 natural resources assessment surcharge, the amounts required by s. 29.985 for the
10 fishing shelter removal assessment, the amounts required by s. 350.115 for the
11 snowmobile registration restitution payment, the amounts required by s. 95.62 (5)
12 for the bait and fish reciprocity assessment, and the amounts required by ss. 29.989
13 and 169.46 (2) for natural resources restitution payments, transmit to the state
14 treasurer a statement of all moneys required by law to be paid on the actions entered
15 during the preceding month on or before the first day of the next succeeding month,
16 certified by the county treasurer's personal signature affixed or attached thereto,
17 and at the same time pay to the state treasurer the amount thereof.

History: 1995 a. 201 ss. 266, 267, 269, 270, 284; 1995 a. 225 ss. 151 to 153; 1995 a. 227 s. 202; 1995 a. 269 s. 2; 1995 a. 408 s. 1; 1995 a. 448 s. 60; 1997 a. 27, 35, 135, 211, 237, 248; 1999 a. 9, 32, 74; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2001 a. 56, 105.

18 **SECTION 3.** 59.40 (2) (m) of the statutes is amended to read:

19 59.40 (2) (m) Pay monthly to the treasurer for the use of the state the state's
20 percentage of the fees required to be paid on each civil action, criminal action and
21 special proceeding filed during the preceding month and pay monthly to the
22 treasurer for the use of the state the percentage of court imposed fines and forfeitures
23 required by law to be deposited in the state treasury, the amounts required by s.
24 757.05 for the penalty assessment surcharge, the amounts required by s. 165.755 for

BILL**SECTION 3**

1 the crime laboratories and drug law enforcement assessment, the amounts required
2 by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for
3 the crime victim and witness assistance surcharge, the amounts required by s.
4 938.34 (8d) for the delinquency victim and witness assistance surcharge, the
5 amounts required by s. 973.046 for the deoxyribonucleic acid analysis surcharge, the
6 amounts required by s. 961.41 (5) for the drug abuse program improvement
7 surcharge, the amounts required by s. 100.261 for the consumer protection
8 assessment, the amounts authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055
9 for the domestic abuse assessment surcharge, the amounts required by s. 253.06 (4)
10 (c) for the enforcement assessment under the supplemental food program for women,
11 infants and children, the amounts required by s. 349.04 for the truck driver
12 education assessment, the amounts required by ss. 346.177, 346.495 and 346.65 (4r)
13 for the railroad crossing improvement assessment, the amounts required by s.
14 346.655 for the driver improvement surcharge, the amounts required by s. 102.85 (4)
15 for the uninsured employer assessment, the amounts required by s. 299.93 for the
16 environmental assessment, the amounts required under s. 29.983 for the wild
17 animal protection assessment, the amounts required under ss. 29.987 (1) (d) and
18 169.46 (1) (d) for the natural resources assessment surcharge, the amounts required
19 by s. 29.985 for the fishing shelter removal assessment, the amounts required by s.
20 350.115 for the snowmobile registration restitution payment, the amounts required
21 by s. 95.62 (5) for the bait and fish reciprocity assessment, and the amounts required
22 under ss. 29.989 (1) (d) and 169.46 (2) (d) for the natural resources restitution

BILL

1 payments. The payments shall be made by the 15th day of the month following
 2 receipt thereof.

History: 1995 a. 27 ss. 3290, 3291; 1995 a. 201 ss. 311 to 318, 320 to 322, 325; 1995 a. 224 ss. 11 to 13; 1995 a. 227 s. 203; 1995 a. 279 s. 8; 1995 a. 404 s. 185; 1995 a. 438; 1995 a. 448 s. 61; Sup. Ct. Order No. 96-08, 207 Wis. 2d xv (1997); 1997 a. 3, 27; 1997 a. 35 ss. 185, 186; 1997 a. 39, 135, 148, 191, 237, 248, 252; 1999 a. 9, 32; 1999 a. 150 s. 672; 2001 a. 16, 56, 61, 105.

3 **SECTION 4.** 95.62[↓] of the statutes is created to read:

4 **95.62 Bait and fish reciprocity. (1) DEFINITIONS.** In this section:

5 (a) “Bait” means any species of minnow, rough fish, frog, crayfish, shrimp,
 6 worm, grub, leech, or insect or insect larva, whether alive or dead.

7 (b) “Licensed bait dealer” means a person licensed under s. 29.509.[↓]

8 (c) “Minnow” has the meaning giveⁿ in s. 29.001 (54).[↓]

9 (d) “Registered fish farmer” means a person registered under s. 95.60 (m).³

10 (e) “Rough fish” has the meaning given in s. 29.001 (74).[↓]

11 (2) **PROHIBITION.** If the laws of another jurisdiction prohibit a registered fish
 12 farmer or licensed bait dealer from bringing a type of bait into that jurisdiction from
 13 this state for sale for fishing purposes or prohibit a person from using for fishing
 14 purposes in that jurisdiction a type of bait obtained from a registered fish farmer or
 15 licensed bait dealer, no person authorized by that jurisdiction to raise or sell bait may
 16 bring that type of bait into this state for sale for fishing purposes and no person may
 17 bring into this state for fishing purposes that type of bait obtained from a person
 18 authorized by that jurisdiction to raise or sell bait.

19 (3) **RULES.** If the laws of another jurisdiction require a registered fish farmer
 20 or licensed bait dealer to post securities or impose other requirements that differ
 21 from those in s. 29.735 (1)[↓] or 95.60 (2) (a)[↓] as a condition of transporting or selling bait
 22 or farm-raised fish in that jurisdiction, the department may promulgate rules
 23 imposing similar requirements on a person authorized by that jurisdiction to raise

BILL**SECTION 4**

1 or sell bait or farm-raised fish as a condition of transporting or selling bait or
2 farm-raised fish in this state.

3 (4) PENALTY. Any person who violates this section may be required to forfeit not
4 more than \$1,000.

5 (5) ASSESSMENT. (a) If a court imposes a forfeiture for a violation of this section,
6 the court shall also impose a bait and fish reciprocity assessment equal to 50% of the
7 amount of the forfeiture.

8 (b) If a forfeiture is suspended in whole or in part, the bait and fish reciprocity
9 assessment shall be reduced in proportion to the suspension.

10 (c) If any deposit is made for an offense to which this subsection applies, the
11 person making the deposit shall also deposit a sufficient amount to include the bait
12 and fish reciprocity assessment under this subsection. If the deposit is forfeited, the
13 amount of the bait and fish reciprocity assessment shall be transmitted to the state
14 treasurer under par. (d).¹ If the deposit is returned, the amount of the bait and fish
15 reciprocity assessment shall also be returned.

16 (d) The clerk of the circuit court shall collect and transmit to the county
17 treasurer the bait and fish reciprocity assessment as required under s. 59.40 (2) (m).¹
18 The county treasurer shall then pay the state treasurer as provided in s. 59.25 (3) (f)
19 2.¹ The state treasurer shall credit all amounts received under this paragraph to the
20 appropriation under s. 20.115 (2) (i).¹

21 **SECTION 5.** 814.63 (3) (h)¹ of the statutes is created to read:

22 814.63 (3) (h) Bait and fish reciprocity assessment imposed by s. 95.62 (5).⁰

23

(END)

ONote

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2244/1dn
RCT: | :...
WLS

John O'Brien:

This is the fish and bait reciprocity draft. The prohibition in proposed s. 95.62 (2) is intended to respond to a prohibition by another state on using minnows brought in from outside of that state for bait and on bringing live minnows into the state (except for use for feeding hatchery fish) and to similar prohibitions.

I did not use the terminology in the proposed language for this draft relating to being chartered by this state and issuing a certificate of authority to do business in this state because that terminology is not applicable to the way this state currently regulates those who sell bait and farm-raised fish.

Please let me know if you have any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
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E-mail: becky.tradewell@legis.state.wi.us

I wonder whether it is necessary to use such a broad definition of "bait," especially since the OWR bait dealer license only covers the sale of minnows, frogs, and crayfish.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2244/1dn
RCT:wlj:cph

March 28, 2003

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Mentkowski, Annie

From: OBrien, John
Sent: Tuesday, April 01, 2003 12:04 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2244/1 Topic: Reciprocity relating to bait and farm-raised fish

It has been requested by <OBrien, John> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2244/1 Topic: Reciprocity relating to bait and farm-raised fish