



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2003 Senate Bill 6	Senate Substitute Amendment 1
<i>Memo published:</i> October 9, 2003	<i>Contact:</i> Mary Offerdahl, Staff Attorney (266-2230)

Current law specifies certain exemptions from the general sales and use tax. [s. 77.54, Stats.]

Senate Substitute Amendment 1 to 2003 Senate Bill 6 adds to these an exemption for the gross receipts from the sale of and the storage, use, or other consumption of live game birds, and clay pigeons, that are sold to bird hunting preserves licensed under s. 169.19, Stats. This exemption first applies, retroactively, to sales made on January 1, 2003.

Legislative History

On September 25, 2003, the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform introduced and recommended for adoption Senate Substitute Amendment 1 by a vote of Ayes, 5; Noes, 0, and recommended passage of the bill, as amended, by a vote of Ayes, 5; Noes, 0. On October 1, 2003, the Senate adopted Senate Substitute Amendment 1 by voice vote and passed the bill, as amended, by a vote of Ayes, 31; Noes, 2.

MO:rv;jal

Assembly Republican Majority Bill Summary

SB 6: Tax Exemption for Game Birds

Relating to: Creating a sales tax and use tax exemption for the sale of game birds.

By Joint Committee for Review of Administrative Rules, by request of 2001-2002 Rule Objection.

Date: Jan. 29, 2004

BACKGROUND

Under current law, generally, the sales and use tax on the sale of property to a service provider who transfers the property in conjunction with the furnishing of any service is incidental to the service. Certain exemptions from the general sales and use tax are specified.

In 2002, at the request of 37 legislators, the Joint Committee for Review of Administrative Rules (JCRAR) investigated the taxing of game bird sales. A Department of Revenue (DOR) audit had recently discovered that game farms were not paying sales taxes on the purchase of their game birds. As a result, DOR ordered the game farms to pay four years of back taxes plus interest. According to JCRAR, the game farms then produced a 1989 DOR memo that included the following statement: "Game farms and shooting preserves which transfer birds to their customers as part of a recreational facility and which paid a sales tax on their receipts from the operation can purchase the birds without tax by giving a resale certificate to the seller." Consequently, DOR rescinded its request for back taxes and interest, but notified the game farms of its intention to prospectively apply a rule requiring the imposition of a sales tax on the purchase of game birds by game farms. It was this action that led the 37 legislators to request JCRAR to hold a hearing and suspend s. Tax 11.12(7)(a), WI Adm. Code.

SUMMARY OF SB 6 (AS AMENDED BY THE SENATE)

SB 6 adds an exemption for the gross receipts from the sale of and storage, use, or other consumption of live game birds and clay pigeons that are sold to bird hunting preserves licensed under s. 169.19, Stats. This exemption first applies, retroactively, to sales made on January 1, 2003.

FISCAL EFFECT

A fiscal estimate prepared by the Department of Revenue indicates that the DNR sells 300,000 tags each year to operators of game farms. The tags are attached to pheasants before being removed from the farm. The WI Gamebird Preserve Assn. (WGPA) estimates that about 75% pheasants purchased by game farms are removed from farms. So, an estimated 400,000 pheasants are sold to game farms annually (300,000/.75). A mature game bird costs about \$7.50 on average. Therefore, estimated sales of game birds to game farms are about \$3,000,000 ($\$7.50 \times 400,000$) annually. In addition, according to the WPGA, about 40,000 chukar partridges, which do not require DNR tags, are purchased annually. Game farms pay about \$6 per chukar partridge, so total partridge sales are estimated to be about \$240,000 ($\$6 \times 40,000$). Total game bird sales are an estimated \$3,240,000 per year. Thus, under this bill, state sales taxes would decrease by about \$162,000 ($\$162,000 \times 7.268\%$) annually. Distributions of county, baseball park and football stadium sales taxes were 7.268% of state sales taxes in FY02. If this percentage remains constant, distributions of local sales taxes would decrease by about \$12,000 ($\$162,000 \times 7.268\%$) annually. The Department estimates that administrative costs would be minimal and could be absorbed by the Department.

PROS

1. Game farms and shooting preserves currently pay a sales tax on the receipts from their operations. Requiring them to pay a sales tax on the purchase of their game birds would result in "double taxation".
2. Exempting the wholesale purchase of game birds from the sales tax is critical to our state's game farm industry – the largest in the nation.

CONS

1. As with any tax exemption, this bill would result in decreased revenue to the state and those counties that impose a sales tax of 0.5%.
2. Allowing an exemption from the sales tax for the game farm industry may encourage other groups to seek special tax treatment for their industries as well.

SUPPORTERS

State Senators Carol Roessler and Judy Robson; Representatives Scott Suder and Terry Musser; Steve Williams, Scott Goetzka, and Gary Goyke, WI Game Preserve Assn.; Kristine Beeler, MacFarlane Pheasants, Inc.; Don Kingsbury, WI Rifle and Pistol Assn.; Darren LaSorte, National Rifle Assn.; Jim Fendry, WI Pro Gun Movement.

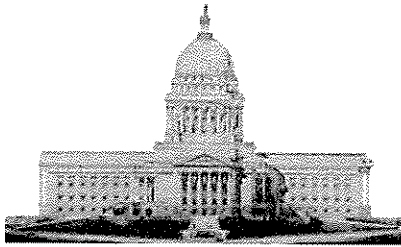
OPPOSITION

Allison Bussler, WI Counties Assn.

HISTORY

Senate Bill 6 was introduced on January 15, 2003 and referred to the Joint Survey Committee on Tax Exemptions. A public hearing was held on May 27, 2003. On that date, the Committee voted 6-3 [Secretary Morgan, Mr. Lee and Ms. Dunn voted no] to recommend the bill as good public policy. On May 29, 2003, SB 6 was referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform. A public hearing was held on July 9, 2003. On Sept. 16, 2003, the Committee voted 5-0 to recommend passage of the bill as amended. On Oct. 1, 2003, the Senate passed SB 6 as amended by SSA 1 by a 31-2 vote. Senate action on SB 6 was messaged to the Assembly and SB 6 was referred to the Assembly Committee on Ways and Means. On Dec. 5, the Committee voted 12-0 [Reps. F. Lasee and Morris absent] to recommend concurrence of SB 6 as amended.

CONTACT: Vicky Halverson, Office of Rep. Mickey Lehman



DAN SCHOOFF

STATE REPRESENTATIVE
WISCONSIN STATE ASSEMBLY

October 30, 2003

Representative Michael Lehman, Chairman
Assembly Committee on Ways and Means
Room 103 West
State Capitol Building
HAND DELIVERED

Dear Representative Lehman:

I am writing on behalf a constituent to request that you schedule Senate Bill 6, relating to the creation of a sales tax and use tax exemption for the sale of game birds for action at your next regularly scheduled meeting. It is my understanding from your staff that the next meeting of the committee is tentatively scheduled for Wednesday, November 19, 2003.

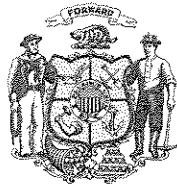
I would greatly appreciate if you could see that SB 6 is included on the agenda. Again, on my constituent's behalf, I ask that you hold an executive session on SB 6 at the committee's next scheduled meeting.

Thank you very much for your attention to this matter. If you have any questions, please do not hesitate to contact me at 266-9967.

Sincerely,

Dan Schooff
State Representative
45th Assembly District

DS: sjln



Carol Roessler
STATE SENATOR

December 2, 2003

Representative Michael Lehman
103 West, State Capitol
Madison, WI 53707

Dear Mickey,

I am writing to ask for your vote for Senate Bill 6, which would exempt the wholesale purchase of game birds from sales tax. Senate Bill 6 maintains the standards that have been in place for years and stops the Department of Revenue from collecting a double taxation. Wisconsin has the nation's largest game industry in the nation; we cannot allow this double taxation to continue on the game farm industry.

As many of you know, last year the Department of Revenue audited many game farms in our districts and communities across the state. Audits arose because as an industry game farms were not charging a sales tax on the wholesale purchase of game birds. Audits from the Department of Revenue reached back four years and charge 12% in interest for back taxes. This action would have cost many game farmers well over \$100,000 in back taxes, putting these small businesses out of business.

The Department of Revenue in a letter dated September 20, 1989, stated, "Game farms and shooting preserves which transfer birds to their customers as part of a recreational facility and which pay the sales tax on their receipts from the operation can purchase the birds without tax by giving a Resale Certificate to the seller." As a result of this letter, DOR stopped their potentially devastating audit activities and rescinded assessments.

While this was a major victory for this industry, the question of double sales tax collection still remains. This is why I have worked on the bill for the hunt clubs, game farms and hunting enthusiasts throughout the state. I hope that those involved in the game farm industry across the state and I can count on your vote for passage of Senate Bill 6.

Sincerely,

A handwritten signature in cursive script that reads 'Carol'.

CAROL ROESSLER
State Senator
18th Senate District



Johnnie E. Morris

STATE REPRESENTATIVE • 11TH ASSEMBLY DISTRICT



December 2, 2003

Representative Michael Lehman
Chair, Assembly Committee on Ways and Means
103 West State Capitol
Madison, WI 53702

Dear Chairman Lehman:

I am writing to request an excused absence for the December 3, 2003 Ways and Means Executive Session.

If present for the Executive Session, I would vote:

- Assembly Amendment to AB 488 - Aye
- AB 488 as amended - Aye
- SB 6 - No
- SB 305 - Aye
- SB 306 - Aye

Thank you,

Representative Johnnie E. Morris
Member, Assembly Committee on Ways and Means



Vote Record Committee on Ways and Means

Date: 12/3/03

Moved by: Lothian

Seconded by: W. Wood

AB _____ SB 6 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Michael Lehman, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Stephen Nass	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Eugene Hahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frank Lasee	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Samantha Kerkman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Thomas Lothian	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Wayne Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leon Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Terese Berceau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Robert Ziegelbauer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Johnnie Morris	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Tom Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>12</u>	<u>0</u>	<u>2</u>	_____

Motion Carried Motion Failed