

## 2005 ASSEMBLY BILL 609

August 16, 2005 – Introduced by Representatives KLEEFISCH, GUNDERSON, HAHN, MUSSER, ALBERS, HINES, KESTELL, LAMB, OWENS, TOWNSEND, PETTIS, MONTGOMERY and OTT, cosponsored by Senators STEPP, WIRCH and MILLER. Referred to Committee on Natural Resources.

1     **AN ACT to repeal** 167.31 (4) (bg) 1m. and 167.31 (4) (bg) 2.; **to amend** 29.047  
2           (1m), 29.047 (2) (a), 29.089 (3), 29.177 (1), 29.347 (2), 29.347 (2m) (b), 29.347 (3)  
3           (a), 29.347 (5) (a), 29.347 (5) (b) (intro.) and 29.357 (5) (b); and **to create** 20.370  
4           (1) (hc), 23.09 (2) (p), 29.001 (19), 29.047 (1) (c) 3., 29.063 (3), 29.063 (4), 29.063  
5           (5), 29.063 (6), 29.347 (6), 29.357 (4m), 29.361 (3m) and 29.506 (5m) of the  
6           statutes; **relating to:** agreements to indemnify persons who process or dispose  
7           of carcasses with chronic wasting disease; access to tissue or disease data from  
8           wild animals; the regulation of the transportation, possession, control, storage,  
9           or disposal of the carcass of a cervid from a chronic wasting disease control zone  
10          or a state with confirmed chronic wasting disease; hunting deer in a chronic  
11          wasting disease control zone without a deer hunting license; granting  
12          rule-making authority; and making an appropriation.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Natural Resources (DNR) may manage and provide funding to conduct testing for chronic wasting disease in cervids (deer

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and elk). DNR also may designate an area as a chronic wasting disease eradication zone and permit hunting in that zone to control the spread of chronic wasting disease.

This bill allows DNR to promulgate rules regulating the transportation, possession, control, storage, and disposal of the carcass of a cervid to control chronic wasting disease. The bill also allows DNR to promulgate rules prohibiting the transportation of the carcass of a cervid from another state or country in which chronic wasting disease has been confirmed in a cervid. Under the bill, these rules may not apply to certain types of meat and antlers, including deboned meat, wrapped meat, and finished taxidermy heads. The rules, under the bill, would apply to everyone that may be involved with the cervid carcass, including motor vehicle operators who accidentally kill a deer on a highway, and hunters, taxidermists, and transporters.

The bill requires any person to provide DNR with sample tissue or data derived from a wild animal if that sample is needed to determine the extent of a disease in wild animals. The bill removes the sunset date of June 30, 2004, to again allow DNR staff, federal employees, and landowners to shoot deer from certain vehicles in areas designated as chronic wasting disease control zones.

The bill also allows DNR and the Department of Agriculture, Trade and Consumer Protection to enter into agreements with persons who own or operate landfills, meat processing facilities, or wastewater treatment facilities to indemnify them for damages resulting from processing or disposal of cervids that have chronic wasting disease.

Under current law, a person must have a valid deer hunting license to obtain a permit to hunt deer. In addition, the person is required to wear a back tag while hunting and to attach a deer tag to any deer killed during the deer hunt. This bill allows DNR to exempt deer hunters in chronic wasting disease control zones from having a deer hunting license. The bill requires DNR to promulgate a rule that establishes eligibility criteria and application procedures for receipt of an exemption from those requirements.

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

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

- 1           **SECTION 1.** 20.370 (1) (hc) of the statutes is created to read:
- 2           20.370 (1) (hc) *Indemnification agreements.* From the general fund, a sum
- 3 sufficient to provide indemnification under agreements under s. 29.063 (6).
- 4           **SECTION 2.** 23.09 (2) (p) of the statutes is created to read:

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1           23.09 (2) (p) *Disease control*. Require any person to provide the department  
2           with disease sample tissue or disease sample data derived from a wild animal, as  
3           defined in s. 29.001 (90), if the department decides that the tissue or data is needed  
4           to determine the existence or extent of a disease in wild animals in this state.

5           **SECTION 3.** 29.001 (19) of the statutes is created to read:

6           29.001 (19) “Cervid” means any species of deer or elk that is present in the wild  
7           and that is not a farm-raised deer.

8           **SECTION 4.** 29.047 (1) (c) 3. of the statutes is created to read:

9           29.047 (1) (c) 3. If the game is a cervid the person transports, possesses,  
10          delivers, receives, or controls the carcass of the cervid in compliance with rules  
11          promulgated by the department.

12          **SECTION 5.** 29.047 (1m) of the statutes is amended to read:

13          29.047 (1m) Unless prohibited by the laws of an adjoining state or a rule  
14          promulgated by the department under s. 29.063 (3) or (4), any person who has  
15          lawfully killed a deer or an elk cervid in this state may take the deer or an elk cervid  
16          or its carcass into the adjoining state and ship the deer or an elk cervid or carcass  
17          from any point in the adjoining state to any point in this state.

18          **SECTION 6.** 29.047 (2) (a) of the statutes is amended to read:

19          29.047 (2) (a) A person who has a valid taxidermist permit and who, in  
20          compliance with rules promulgated by the department under s. 29.063 (3) or (4),  
21          possesses, transports, causes to be transported, delivers or receives, or offers to  
22          deliver or receive, a wild animal carcass in connection with his or her business.

23          **SECTION 7.** 29.063 (3) of the statutes is created to read:

24          29.063 (3) To control chronic wasting disease, the department may promulgate  
25          rules regulating the transportation, possession, control, storage, or disposal of the

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1 carcass of a cervid in this state, except that the rules may not apply to any of the  
2 following:

3 (a) Meat that is cut and wrapped, either commercially or privately.

4 (b) Quarters or other portions of meat to which no part of the spinal column or  
5 head is attached.

6 (c) Meat that has been deboned.

7 (d) Hides with no heads attached.

8 (e) Finished taxidermy heads.

9 (f) Antlers with no meat or tissue attached.

10 (g) Skulls with antlers attached and with no meat or tissue attached.

11 (h) Upper canine teeth.

12 **SECTION 8.** 29.063 (4) of the statutes is created to read:

13 29.063 (4) The department may promulgate rules prohibiting the  
14 transportation of the carcass of a cervid from another state or country in which  
15 chronic wasting disease has been confirmed in a cervid, except that the rules may not  
16 apply to any of the following:

17 (a) Meat that is cut and wrapped, either commercially or privately.

18 (b) Quarters or other portions of meat to which no part of the spinal column or  
19 head is attached.

20 (c) Meat that has been deboned.

21 (d) Hides with no heads attached.

22 (e) Finished taxidermy heads.

23 (f) Antlers with no meat or tissue attached.

24 (g) Skulls with antlers attached and with no meat or tissue attached.

25 (h) Upper canine teeth.

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1           **SECTION 9.** 29.063 (5) of the statutes is created to read:

2           29.063 (5) The department may exempt deer hunters from obtaining a license  
3 under this chapter for the hunting of deer in an area that the department has  
4 designated by rule as a chronic wasting disease control zone. Deer hunters that are  
5 exempted under this subsection shall be at least 12 years of age, except that a person  
6 born on or after January 1, 1973, may not hunt deer under this subsection unless he  
7 or she complies with ss. 29.304 and 29.593. The department shall by rule establish  
8 eligibility criteria and application procedures for receipt of an exemption under this  
9 subsection, including a method for obtaining a permit to hunt deer without a license  
10 under this subsection.

11           **SECTION 10.** 29.063 (6) of the statutes is created to read:

12           29.063 (6) (a) In this subsection:

13           1. “Landfill” means a solid waste facility, as defined in s. 289.01 (35), for solid  
14 waste disposal, as defined in s. 289.01 (34), licensed under s. 289.31.

15           2. “Meat processing facility” means a plant or premises where animals are  
16 slaughtered for human consumption, or where meat or meat products are processed,  
17 but does not include rendering plants.

18           3. “Wastewater treatment facility” means a plant or premises used to treat  
19 industrial wastewater or domestic wastewater or any combination of industrial  
20 wastewater and domestic wastewater and permitted pursuant to ch. 283.

21           (b) Subject to par. (c), the department or the department of agriculture, trade  
22 and consumer protection may enter into agreements with persons who own or  
23 operate landfills, meat processing facilities, or wastewater treatment facilities in  
24 which this state agrees to indemnify those persons and their employees, officers, and  
25 agents against liability for damage to persons, property, or the environment

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1 resulting from the processing or disposal of carcasses of cervids and farm-raised deer  
2 that have chronic wasting disease.

3 (c) The department or the department of agriculture, trade and consumer  
4 protection may enter into an agreement under par. (b) only if all of the following  
5 apply:

6 1. The governor approves the agreement.

7 2. The agreement specifies a method for determining whether the landfill, meat  
8 processing facility, or wastewater treatment facility is liable for damage described  
9 in par. (b).

10 3. The agreement requires the landfill, meat processing facility, or wastewater  
11 treatment facility to notify the department that entered into the agreement and the  
12 attorney general when a claim or lawsuit to which the agreement may apply is filed.

13 4. The agreement authorizes the attorney general to intervene on behalf of the  
14 landfill, meat processing facility, or wastewater treatment facility and this state in  
15 any lawsuit to which the agreement may apply.

16 5. The agreement requires the owner or operator of the landfill, meat  
17 processing facility, or wastewater treatment facility to minimize risks related to  
18 processing or disposal of carcasses of cervids and farm-raised deer that have chronic  
19 wasting disease.

20 6. The agreement authorizes the department that entered into the agreement  
21 to require the owner or operator of the landfill, meat processing facility, or  
22 wastewater treatment facility to operate in a manner specified in writing by that  
23 department to minimize risks related to processing or disposal of carcasses of cervids  
24 and farm-raised deer that have chronic wasting disease.

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1 (d) This subsection and any agreement entered into under par. (b) may not be  
2 construed as consent to sue this state.

3 (e) If a claim is filed under an agreement under par. (b), the department that  
4 entered into the agreement shall review the claim to determine whether it is valid.  
5 A valid claim shall be paid from the appropriation under s. 20.370 (1) (hc).

6 **SECTION 11.** 29.089 (3) of the statutes is amended to read:

7 29.089 (3) A person may hunt deer, elk, wild turkeys, or small game in a state  
8 park, or in a portion of a state park, if the department has authorized by rule the  
9 hunting of that type of game in the state park, or in the portion of the state park, and,  
10 except as provided in s. 29.063 (5), if the person holds the approvals required under  
11 this chapter for hunting that type of game.

12 **SECTION 12.** 29.177 (1) of the statutes is amended to read:

13 29.177 (1) ISSUANCE. The department may issue a hunter's choice deer hunting  
14 permit, a deer hunting party permit or other special deer hunting permit to a person  
15 with a valid deer hunting license who applies for the permit and to a person who is  
16 exempt from obtaining a deer hunting license under s. 29.063 (5) who applies for a  
17 permit.

18 **SECTION 13.** 29.347 (2) of the statutes is amended to read:

19 29.347 (2) DEER OR ELK CARCASS TAGS. Except as provided under sub. (5) and s.  
20 29.324 (3), any person who kills a deer shall immediately attach to the ear or antler  
21 of the deer a current validated deer carcass tag which is authorized for use on the  
22 type of deer killed. Any person who kills an elk shall immediately attach to the ear  
23 or antler of the elk a current validated elk carcass tag. Except as provided under sub.  
24 (2m) or s. 29.89 (6), no person may possess, control, store, or transport a deer carcass  
25 unless it is tagged as required under this subsection. Except as provided under sub.

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1 (2m), no person may possess, control, store, or transport an elk carcass unless it is  
2 tagged as required under this subsection. A person who kills a deer or an elk shall  
3 register the deer or elk in the manner required by the department. A person who kills  
4 a deer or an elk shall possess, control, store, or transport the deer or elk carcass in  
5 compliance with rules promulgated by the department under s. 29.063 (3). The  
6 carcass tag may not be removed before registration. The removal of a carcass tag  
7 from a deer or an elk before registration renders the deer or elk untagged.

8 **SECTION 14.** 29.347 (2m) (b) of the statutes is amended to read:

9 29.347 **(2m)** (b) Any Subject to sub. (6), any person who retains a tag under par.  
10 (a) may give deer or elk meat to another person. The person who receives the gift of  
11 deer or elk meat is not required to possess a tag.

12 **SECTION 15.** 29.347 (3) (a) of the statutes is amended to read:

13 29.347 **(3)** (a) Except as provided in par. (b) and sub. (6), the control or  
14 possession of the head or skin of any deer or elk lawfully killed, when severed from  
15 the rest of the carcass, are not subject to this chapter.

16 **SECTION 16.** 29.347 (5) (a) of the statutes is amended to read:

17 29.347 **(5)** (a) Any Subject to sub. (6), any person who while operating a motor  
18 vehicle on a highway accidentally collides with and kills a deer may take possession  
19 of the carcass. If Subject to sub. (6), if the motor vehicle operator does not want to  
20 take the carcass, the carcass may be taken by any other person who is present at the  
21 scene of the accident at the time the collision occurs or at any time after the collision  
22 occurs.

23 **SECTION 17.** 29.347 (5) (b) (intro.) of the statutes is amended to read:

24 29.347 **(5)** (b) (intro.) No person may take possession of the carcass of a deer  
25 killed in the manner specified in par. (a) and remove the carcass from the scene of



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1 the accident unless the person has complied with rules promulgated by the  
2 department under s. 29.063 (3) and one of the following apply:

3 **SECTION 18.** 29.347 (6) of the statutes is created to read:

4 29.347 **(6)** CONTROL OF CARCASSES. No person may transport, possess, store,  
5 butcher, or control the carcass of a cervid in violation of rules promulgated by the  
6 department under s. 29.063 (3) or (4).

7 **SECTION 19.** 29.357 (4m) of the statutes is created to read:

8 29.357 **(4m)** CONTROL OF CERVID CARCASSES. No person may transport, cause to  
9 be transported, deliver, receive, offer to deliver or receive, or control the carcass of  
10 a cervid in violation of rules promulgated by the department under s. 29.063 (3) or  
11 (4).

12 **SECTION 20.** 29.357 (5) (b) of the statutes is amended to read:

13 29.357 **(5)** (b) Subsections (1) to ~~(4)~~ (4m) do not apply to the possession,  
14 transportation, delivery, or receipt of farm-raised deer, farm-raised fish,  
15 farm-raised game birds, or wild animals that are subject to regulation under ch. 169.

16 **SECTION 21.** 29.361 (3m) of the statutes is created to read:

17 29.361 **(3m)** Notwithstanding subs. (1), (2), (2m), (3), and (5), no person may  
18 receive for transportation, transport, or attempt to transport the carcass of a cervid  
19 in violation of rules promulgated by the department under s. 29.063 (3).

20 **SECTION 22.** 29.506 (5m) of the statutes is created to read:

21 29.506 **(5m)** CONTROL OF CERVID CARCASSES. No taxidermist may possess,  
22 transport, or control the carcass of a cervid in violation of rules promulgated by the  
23 department under s. 29.063 (3) or (4).

24 **SECTION 23.** 167.31 (4) (bg) 1m. of the statutes is repealed.

