

2005 Assembly Bill 581

Date of enactment: April 8, 2006
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2005 WISCONSIN ACT 288

AN ACT *to repeal* 29.407 (2) (c), 29.503 (5) (b), 29.519 (4m) (e) and 29.519 (5) (d); *to renumber* 814.75 (1), 814.76 (1) and 814.77 (1); *to renumber and amend* 29.407 (2) (b), 29.503 (4) (d), 29.519 (1) and 29.971 (1) (d); *to amend* 29.407 (2) (a), 29.503 (1) (b), 29.503 (1) (e), 29.503 (4) (title), 29.503 (4) (a), 29.503 (4) (b), 29.503 (5) (title), 29.503 (5) (a), 29.503 (6) (b) 2., 29.503 (6) (c), 29.503 (7), 29.519 (2) (d), 29.519 (2) (f), 29.519 (2) (fm), 29.519 (4) (a), 29.519 (4m) (a), 29.519 (4m) (c) (intro.), 29.519 (5) (a), 29.519 (5) (b), 29.519 (5) (c), 29.519 (6) (intro.), 29.519 (6) (a), 29.519 (6) (b), 29.519 (6m), 29.539 (2), 29.539 (3), 29.563 (7) (a) 1., 29.563 (7) (b) 1., 29.563 (7) (c) 1., 29.924 (4), 29.971 (1) (b), 29.971 (1) (c), 29.971 (1) (e), 29.971 (5), 29.987 (1) (a) and 30.51 (2) (c) 2.; and *to create* 20.370 (4) (kr), 29.001 (41m), 29.407 (2) (b) 1., 29.503 (1) (cm), 29.503 (4) (d) 2., 29.503 (4) (d) 3., 29.503 (4) (e), 29.503 (5) (br), 29.503 (5) (c), 29.503 (5) (d), 29.503 (6) (am), 29.519 (1b), 29.519 (2) (e), 29.519 (5) (dm), 29.519 (5m), 29.519 (6) (c), 29.519 (6g), 29.539 (3m), 29.931 (2) (am), 29.971 (1) (d) 1. and 4., 29.972, 29.984, 29.99, 29.991, 814.75 (1g), 814.75 (12n), 814.75 (13m), 814.76 (1g), 814.76 (10m), 814.77 (1g), 814.77 (5m) and 814.77 (6m) of the statutes; **relating to:** licensing, vehicle identification, and record-keeping requirements for wholesale fish dealers and commercial fishers, inspections of wholesale fish dealer and commercial fisher records and premises, commercial fishing boats, periods when a commercial fisher may fish on the waters of Green Bay, the sale and purchase of eggs from certain trout and salmon, commercial fishing approval fees, seizure of certain fishing devices, access to places used to store or retain wild animals, establishing a commercial fish reporting system, imposing certain surcharges, providing an exemption from emergency rule procedures, extending the time limit for emergency rule procedures, making an appropriation, and providing penalties.

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

SECTION 1. 20.370 (4) (kr) of the statutes is created to read:

20.370 (4) (kr) *Commercial fish protection and Great Lakes resource surcharges.* All moneys received from commercial fish protection surcharges under s. 29.984 and from Great Lakes resource surcharges under s. 29.99 for research relating to Great Lakes fish.

SECTION 2. 29.001 (41m) of the statutes is created to read:

29.001 (41m) “Great Lakes fish” means lake trout, siscowet, whitefish, chubs, yellow perch, menominee, lake herring, smelt, alewife, and burbot.

SECTION 3. 29.407 (2) (a) of the statutes is amended to read:

29.407 (2) (a) No person may transport or cause to be transported, or deliver or receive or offer to deliver or receive for transportation, any game fish taken from outlying waters unless the person complies with all applicable requirements under pars. (b) to and (d).

SECTION 4. 29.407 (2) (b) of the statutes is renumbered 29.407 (2) (b) 2. and amended to read:

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

29.407 (2) (b) 2. No ~~green~~ fresh fish of any variety except lawfully taken suckers may be shipped from any port located on outlying waters during the closed season for the fish, except the first 3 days of the closed season.

SECTION 5. 29.407 (2) (b) 1. of the statutes is created to read:

29.407 (2) (b) 1. In this paragraph, “fresh fish” means any fish that has not been frozen or smoked.

SECTION 6. 29.407 (2) (c) of the statutes is repealed.

SECTION 7. 29.503 (1) (b) of the statutes is amended to read:

29.503 (1) (b) “Fish” means any processed or unprocessed fish of those species which are found in the waters of the state as defined in s. 281.01 (18), including parts of fish, fish eggs, or fish products. “Fish” does not include minnows produced and sold or purchased as bait.

SECTION 8. 29.503 (1) (cm) of the statutes is created to read:

29.503 (1) (cm) “Record” includes any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form, that relates to the production, storage, transportation, purchase, sale, trade, barter, or other acquisition or disposition of fish by commercial fishers or wholesale fish dealers.

SECTION 9. 29.503 (1) (e) of the statutes is amended to read:

29.503 (1) (e) “Wholesale fish dealer” means any person who buys, barter, obtains, sells ~~or~~ solicits, or processes fish in any manner for himself or herself or any other person for sale to anyone other than a consumer; but no established retail store or locker plant is a “wholesale fish dealer” solely as the result of the sale of fish to a restaurant, hotel or tavern at no reduction in the retail price charged other retail customers. A producer of fish, except as otherwise hereinafter provided, who sells fish directly to retailers is a wholesale fish dealer. Hotels, meat markets, grocery stores, restaurants and taverns are retailers, except when they sell fish for resale, in which case they are wholesale fish dealers.

SECTION 10. 29.503 (4) (title) of the statutes is amended to read:

29.503 (4) (title) TAGGING AND LABELING, AND VEHICLE IDENTIFICATION REQUIREMENTS.

SECTION 11. 29.503 (4) (a) of the statutes is amended to read:

29.503 (4) (a) *Tag, label or receipt required.* No wholesale fish dealer may sell, buy, barter, trade, possess, control ~~or~~ transport, or cause to be transported any fish unless the fish are tagged and labeled in accordance with the law of the state or country where they were taken or, if no label or tag is required under the law of that state or country, unless the fish are accompanied by a receipt or invoice from the person from whom the fish were purchased or obtained.

SECTION 12. 29.503 (4) (b) of the statutes is amended to read:

29.503 (4) (b) *Special tagging requirements for lake trout.* No wholesale fish dealer or producer of fish may sell, buy, barter, trade, possess, control ~~or~~ transport, or cause to be transported any lake trout unless the lake trout is tagged with a valid, current commercial fish tag issued or authorized identified in the form and manner required by the department ~~or by a governmental agency of another state or country.~~ If a licensed wholesale fish dealer gives the department at least 12 hours’ notice of the date, time and location of arrival at the state line of lawfully possessed, untagged lake trout which are intended for importation into this state by the licensed wholesale fish dealer, the department or its representatives shall meet the shipment of lake trout and attach a “foreign lake trout tag” to each fish or seal the shipment with a department seal which may not be removed prior to delivery to the licensed wholesale fish dealer. ~~The department or its representative shall tag the lake trout in a timely and orderly manner, and so as not to create any damage or spoilage to the fish. The tag shall be attached through the gills and mouth of whole lake trout, or in a manner which results in 2 complete fillets joined by the tag. For tagging of other forms of lake trout, the department shall promulgate rules to determine the manner in which the tag shall be attached to or accompany the trout, and the conditions, if any, under which the tag may be separated from the trout.~~

SECTION 13. 29.503 (4) (d) of the statutes is renumbered 29.503 (4) (d) 1. and amended to read:

29.503 (4) (d) 1. No wholesale fish dealer or producer of fish may transport or cause to be transported, or deliver or receive for transportation from the seller of fish to the buyer of fish, any container, package, or box containing any fish unless it is labeled legibly in a manner which discloses the name, address and license number of the consignor which shall be identical to that on the license; the name and address of the consignee; and each kind of fish contained in the package or box. ~~If the shipment of fish is accompanied by an invoice containing the name, address and license number of the consignor, which shall be identical to that on the license; the name, address and license number, if any, of the consignee; the date of shipment from the consignor; the kinds of fish, the pounds of each kind and the description of the fish being shipped; and the signature of the person completing the invoice, the kinds of fish contained may be omitted from the package or box labels. Producers shall only be required to label or provide invoices for packages or boxes of fish being transported by vehicle or boat for purposes of sale. This paragraph does not apply to a producer of fish on the Mississippi River accompanied by a bill of lading or an invoice that contains the name, address, and license number of the seller and of the buyer.~~

SECTION 14. 29.503 (4) (d) 2. of the statutes is created to read:

29.503 (4) (d) 2. The bill of lading or invoice required under subd. 1. shall contain the name, address, and license number of the seller and the buyer of the fish covered by the bill of lading or invoice and shall specify the point of origin of the fish, the point of destination of the fish, the species of fish, the weight of each species of fish, and the number of containers, packages, or boxes covered by the bill of lading or invoice. The operator of the conveyance transporting the fish shall immediately produce the bill of lading or invoice for inspection upon the request of a warden.

SECTION 15. 29.503 (4) (d) 3. of the statutes is created to read:

29.503 (4) (d) 3. This paragraph does not apply to a producer of fish if the producer is transporting fish from the producer's boat or landing to a processing facility in this state.

SECTION 16. 29.503 (4) (e) of the statutes is created to read:

29.503 (4) (e) *Vehicle identification requirements.* 1. No wholesale fish dealer or producer of fish may transport or cause to be transported any fish in a vehicle unless the ownership of the vehicle is marked in a manner prescribed by the department that identifies the vehicle's ownership and that confirms that the vehicle contains fish.

2. This paragraph does not apply to a producer of fish if the producer is transporting fish from the producer's boat or landing to a processing facility in this state.

SECTION 17. 29.503 (5) (title) of the statutes is amended to read:

29.503 (5) (title) RECORDS AND REPORTS INVENTORIES.

SECTION 18. 29.503 (5) (a) of the statutes is amended to read:

29.503 (5) (a) *Records.* Each wholesale fish dealer shall keep legible, written records in the English language of all fish purchased, sold, possessed, or obtained in his or her capacity as a wholesale fish dealer, ~~in the manner required and on forms provided by the department by any means including by trade or barter and shall keep records of all fish disposed of in his or her capacity as a wholesale fish dealer for any reason, including as a result of spoilage or by donation.~~ The record shall include the name, address, and fish dealer license number of the purchaser; the name, address, and wholesale fish dealer or commercial fishing license number of the person from whom the fish were purchased or obtained; the date of the transaction; the kinds of fish, the pounds or kilograms of each kind and the description of the fish purchased or obtained; and the signature of the person completing the record. If the record relates to a retail sale by the wholesale fish dealer, the record shall include only the date of the transaction and the kind, weight, and condition of the fish sold.

SECTION 19. 29.503 (5) (b) of the statutes is repealed.

SECTION 20. 29.503 (5) (br) of the statutes is created to read:

29.503 (5) (br) *Inventory.* Each wholesale fish dealer shall prepare an annual inventory of Great Lakes fish and all species of sturgeon owned by the wholesale fish dealer or in the dealer's possession or control at the time that the inventory is prepared, including such fish maintained in cold storage facilities. The inventory shall be furnished to the department within 15 days after the inventory is completed. The inventory shall be recorded on a form available from the department and shall include the weight of the fish in pounds or kilograms, the species of the fish, the condition of the fish, and the address of the location of the fish.

SECTION 21. 29.503 (5) (c) of the statutes is created to read:

29.503 (5) (c) *Prohibition.* No wholesale fish dealer, or employee of a wholesale fish dealer, may possess, control, store, transport, or cause to be transported any fish for which there is no record or for which there is no inventory as required under this subsection.

SECTION 22. 29.503 (5) (d) of the statutes is created to read:

29.503 (5) (d) *Record retention and confidentiality.*
1. Each wholesale fish dealer shall retain all records and inventories required under this subsection for a period of at least 5 years from the date on which the record or inventory was created. Each wholesale fish dealer shall notify the department annually, on forms available from the department, of the location of the dealer's records and inventories.

2. Upon the written request of a wholesale fish dealer to the department, the department shall keep confidential the value or weight of any fish listed on a record or inventory under this subsection and the identity of any person who is listed on a record under this subsection as having purchased, sold, possessed, or obtained fish.

3. Notwithstanding the confidentiality requirement in subd. 2, the department may disclose information contained on any record or inventory furnished by a dealer to the department if the disclosure is in furtherance of an investigation or enforcement action undertaken by the department or a law enforcement agency.

4. Notwithstanding the confidentiality requirement in subd. 2, the department may disclose information contained on any record furnished by a dealer to the department if the department uses the information for a statistical summary or report that does not identify the dealer by name or license number.

SECTION 23. 29.503 (6) (am) of the statutes is created to read:

29.503 (6) (am) *Record production.* 1. Upon the request of the department, a wholesale fish dealer licensed in this state shall produce all records relating to the purchase, acquisition, sale, trade, barter, storage, or

disposition of fish that are kept at the wholesale fish dealer's place of business or at a residence, dwelling, or location other than the wholesale fish dealer's place of business, within 24 hours of the request, for inspection or copying. The wholesale fish dealer may mail the records to the department for inspection or copying. The records shall be mailed within 24 hours of receipt of the department's request.

2. The department may not issue a license to, or renew a wholesale fish dealer license issued to, any person who has been convicted of violating this paragraph for a period of one year following the conviction.

SECTION 24. 29.503 (6) (b) 2. of the statutes is amended to read:

29.503 (6) (b) 2. To inspect fish stored or in the possession of a wholesale fish dealer, inspect or copy records or reports of a wholesale fish dealer, and to inspect buildings, structures, vehicles, boats, equipment and materials related to a wholesale fish dealer's business.

SECTION 25. 29.503 (6) (c) of the statutes is amended to read:

29.503 (6) (c) Failure to produce records or to permit inspection. No wholesale fish dealer, operator of a vehicle or boat for a wholesale fish dealer or employee or person acting on behalf of a wholesale fish dealer may prohibit entry or prohibit an inspection to be conducted as authorized under this subsection, or refuse to produce records as required under this subsection, unless a court restrains or enjoins the entry ~~or~~ inspection, or production.

SECTION 26. 29.503 (7) of the statutes is amended to read:

29.503 (7) EXEMPTION. This section does not apply to fish produced in a state or municipal fish hatchery or to farm-raised fish that are bought, bartered, sold, obtained, processed, solicited, or transported by a person who operates a fish farm registered under s. 95.60 (3m) or by that person's employees.

SECTION 27. 29.519 (1) of the statutes is renumbered 29.519 (1m), and 29.519 (1m) (c), as renumbered, is amended to read:

29.519 (1m) (c) The department may promulgate rules defining the qualifications of licensees in the reasonable exercise of this authority, giving due consideration to residency, past record including compliance with the reporting records requirements of sub. (5), fishing and navigation ability and quantity and quality of equipment possessed. Rules relating to licensing commercial fishers shall be based on criteria provided by the commercial fishing boards under sub. (7).

SECTION 28. 29.519 (1b) of the statutes is created to read:

29.519 (1b) In this section, "record" has the meaning given in s. 29.503 (1) (cm).

SECTION 29. 29.519 (2) (d) of the statutes is amended to read:

29.519 (2) (d) *Transfer of license.* ~~The department may, upon application, permit the transfer of a license to any similar boat during the time a licensed boat is disabled or undergoing repairs or upon the sale of a licensed boat.~~ The department shall promulgate rules governing the transfer of commercial fishing licenses between individuals equally qualified to hold the licenses and to members of a licensee's immediate family provided the rules assure the wise use and conservation of the fish resources being harvested under the license. The rules shall relate only to those waters in which the number of licenses is limited. The commercial fishing boards, under sub. (7), shall approve or deny transfers of commercial fishing licenses in accordance with the rules promulgated under this section. For purposes of s. 29.024 (2g) and (2r), a transfer of a license under this section shall be considered an issuance of a license to the transferee.

SECTION 30. 29.519 (2) (e) of the statutes is created to read:

29.519 (2) (e) *Transfer of replacement boats.* The department may, upon application, allow the holder of a commercial fishing license to replace a boat listed on that license with a different boat.

SECTION 31. 29.519 (2) (f) of the statutes is amended to read:

29.519 (2) (f) *Licensed Commercial fishing boats.* Any ~~licensed~~ boat used by a resident licensee shall be from a port of record in this state, its hailing port shall be a port in this state, and it shall be a registered or documented boat of this state. Any ~~licensed~~ boat used by a nonresident licensee shall be a registered or documented boat of the state of residency.

SECTION 32. 29.519 (2) (fm) of the statutes is amended to read:

29.519 (2) (fm) *Attending boats.* Each ~~licensed~~ boat in excess of 25 feet in overall length used by a commercial fisher may be accompanied by and work with one attending boat without an additional license fee for the attending boat. Any attending boat that is a motorboat under s. 30.50 (2) shall be ~~a~~ registered boat under s. 30.51. An attending boat shall bear the name, if any, of the ~~licensed~~ boat listed on the commercial fishing license issued under sub. (1m) and may be used only for attending ~~the licensed~~ that boat.

SECTION 33. 29.519 (4) (a) of the statutes is amended to read:

29.519 (4) (a) Any commercial fishing licensee may use licensed crew members when fishing with or without a boat. The number of crew members engaged under a single license may not exceed 4 when fishing with nets under the ice. The department, upon proper application for crew licenses, may issue with each commercial fishing license no more than 4 crew licenses for the specific purpose of fishing with nets under the ice and the number indicated on the application for the purpose of fishing in open water. Each crew license shall bear the number of

the commercial fishing license, the purpose for which intended, the year for which issued and the name of the crew member to whom the crew license is issued. The crew license permits a person to engage in commercial fishing only as a member of a crew of a commercial fisher licensed under sub. ~~(4)~~ (1m).

SECTION 34. 29.519 (4m) (a) of the statutes is amended to read:

29.519 **(4m)** (a) In this subsection, “incidental catch” means species of fish inadvertently caught while a commercial fisher licensed under sub. ~~(4)~~ (1m) is fishing by trawl for other species of fish.

SECTION 35. 29.519 (4m) (c) (intro.) of the statutes is amended to read:

29.519 **(4m)** (c) (intro.) A commercial fisher licensed under sub. ~~(4)~~ (1m) may fish by trawl for the total allowable commercial harvest of smelt, as set by rule by the department, on the waters of Green Bay at any time during ~~the period beginning one hour after sunset and ending 3 hours after sunrise~~ nighttime if all of the following apply:

SECTION 36. 29.519 (4m) (e) of the statutes is repealed.

SECTION 37. 29.519 (5) (a) of the statutes is amended to read:

29.519 **(5)** (a) ~~Records and reports requirements.~~ Each commercial fishing licensee fisher shall maintain and submit records ~~and provide reports as to the department in the form and manner~~ required by the department by rule.

SECTION 38. 29.519 (5) (b) of the statutes is amended to read:

29.519 **(5)** (b) *Fishing records.* The licensee commercial fisher shall keep and submit a complete, legible and accurate record of the licensee’s daily fishing activities, in the form and manner required ~~and on forms provided~~ by the department. The record shall include the complete name, address and commercial fishing license number of the licensee; the name and number of the boat fished from; the location fished; the month and year for which the record is being kept ~~for~~; the date of each day’s fishing activity; the kind and amount of commercial fishing gear used; the kind of fish caught and the number of pounds of each kind of fish caught; and the signature of the licensee.

SECTION 39. 29.519 (5) (c) of the statutes is amended to read:

29.519 **(5)** (c) *Catch Fish disposition records.* The licensee commercial fisher shall keep a complete, legible and accurate record of the disposition of landed catch, in the form and manner required ~~and on forms provided~~ by the department. The record shall include the complete name, address and commercial fishing license number of the licensee; for each wholesale sale, the complete name, address and wholesale fish dealer license number, if any, of the buyer and the kinds of fish sold, the number of

pounds of each kind and the description of the fish sold and the date of the ~~transaction~~ sale; for direct retail sales, the kinds of fish sold ~~and~~, the total pounds of each kind, and the date of the sale; and the signature of the licensee. In this paragraph, “landed catch” means those fish or fish parts caught in commercial fishing operations and brought to shore to utilize or to sell or otherwise ~~utilize~~ dispose of.

SECTION 40. 29.519 (5) (d) of the statutes is repealed.

SECTION 41. 29.519 (5) (dm) of the statutes is created to read:

29.519 **(5)** (dm) *Record retention and confidentiality.*

1. Each commercial fisher shall maintain and retain all records required under this subsection for a period of at least 5 years from the date on which the record was created. Each commercial fisher shall notify the department annually, on forms available from the department, of the location of the commercial fisher’s records.

2. Upon the written request of a commercial fisher to the department, the department shall maintain the confidentiality of the information contained on each record furnished by the commercial fisher to the department.

3. Notwithstanding the confidentiality requirement in subd. 2., the department may disclose information contained on any record furnished by a commercial fisher to the department if the disclosure is in furtherance of an investigation or enforcement action undertaken by the department or a law enforcement agency.

4. Notwithstanding the confidentiality requirement in subd. 2., the department may disclose information contained on any record furnished by a commercial fisher to the department if the department uses the information for a statistical summary or report that does not identify the commercial fisher by name or license number.

SECTION 42. 29.519 (5m) of the statutes is created to read:

29.519 **(5m)** *INVENTORY.* Each commercial fishing licensee shall prepare an annual inventory of Great Lakes fish and all species of sturgeon owned by the licensee or in the licensee’s possession or control at the time that the inventory is prepared, including such fish maintained in cold storage facilities. The inventory shall be furnished to the department within 15 days after the inventory is completed. The inventory shall be recorded on a form available from the department and shall include the weight of the fish in pounds or kilograms, the species of the fish, the condition of the fish, and the address of the location of the fish.

SECTION 43. 29.519 (6) (intro.) of the statutes is amended to read:

29.519 **(6)** *INSPECTION.* (intro.) For purposes of enforcement of this section, wardens or department employees duly authorized and designated by the secretary, upon presenting appropriate credentials to the licensee commercial fisher, crew member, or agent in charge, are authorized:

SECTION 44. 29.519 (6) (a) of the statutes is amended to read:

29.519 (6) (a) To enter any building or structure, excluding a dwelling place, in which records, nets, or fish are stored, or held, or in which fish are processed, or packed or held, or to enter any boat or vehicle being used to transport nets or fish when the owner or agent in charge is present or upon 8 hours' notice at other times.

SECTION 45. 29.519 (6) (b) of the statutes is amended to read:

29.519 (6) (b) To inspect buildings, structures, boats or vehicles, to inspect all pertinent equipment including nets used or stored in the places to be inspected, to inspect or copy all records of commercial fishing activity, of fish storage, and of fish disposition, and to inspect any fish stored, processed, packed or held in the places to be inspected.

SECTION 46. 29.519 (6) (c) of the statutes is created to read:

29.519 (6) (c) To direct a commercial fisher, a crew member, or an agent in charge to empty any fish box that is larger than a standard fish box, as defined by the department by rule. If so directed, the commercial fisher, crew member, or agent shall empty such fish box.

SECTION 47. 29.519 (6g) of the statutes is created to read:

29.519 (6g) RECORD PRODUCTION. Upon the request of the department, a commercial fisher shall produce all records relating to the production, acquisition, sale, trade, barter, storage, or disposition of fish that are kept at the commercial fisher's place of business or at a residence, dwelling, or location other than the commercial fisher's place of business within 24 hours of the request for inspection or copying. The records shall be mailed within 24 hours of receipt of the request.

SECTION 48. 29.519 (6m) of the statutes is amended to read:

29.519 (6m) INTERFERENCE WITH INSPECTIONS. No licensee commercial fisher, licensed crew member, operator of a vehicle or boat for the licensee commercial fisher, or an employee acting on behalf of the licensee commercial fisher may prohibit entry or prohibit an inspection to be conducted, fail or refuse to produce any record, or fail or refuse to immediately empty a fish box or container as authorized provided under sub. (6) unless a court restrains or enjoins the entry or inspection. The department may not conduct an inspection or examine a person's records under sub. (6) if such action has been enjoined by court order.

SECTION 49. 29.539 (2) of the statutes is amended to read:

29.539 (2) ~~No~~ Except as provided in subs. (3) and (3m), no fish taken by hook and line from outlying waters, except rough fish, may be sold, bartered or traded in any manner.

SECTION 50. 29.539 (3) of the statutes is amended to read:

29.539 (3) The eggs from trout and salmon that are not farm-raised fish and that are lawfully taken and possessed under this chapter are exempted from this section if removed from the fish. ~~The whole fish shall be taken to the buyer of the eggs and the eggs removed in the presence of the buyer. The fish carcass shall be legally disposed of as provided under sub. (3m).~~

SECTION 51. 29.539 (3m) of the statutes is created to read:

29.539 (3m) The eggs from trout and salmon that are not farm-raised fish may not be sold or purchased unless the eggs are first removed from the whole fish in the presence of the buyer. The fish carcass shall be legally disposed of. Eggs that are removed in accordance with this subsection may subsequently be sold or purchased without the fish subject to any licensing requirement under s. 29.503.

SECTION 52. 29.563 (7) (a) 1. of the statutes is amended to read:

29.563 (7) (a) 1. Outlying waters: \$899.25 for the first ~~licensed~~ boat and \$899.25 for each additional ~~licensed~~ boat that is listed on a license issued under s. 29.519 (1m).

SECTION 53. 29.563 (7) (b) 1. of the statutes is amended to read:

29.563 (7) (b) 1. Outlying waters: \$6,499.25 for the first ~~licensed~~ boat and \$6,499.25 for each additional ~~licensed~~ boat that is listed on a license issued under s. 29.519 (1m).

SECTION 54. 29.563 (7) (c) 1. of the statutes is amended to read:

29.563 (7) (c) 1. Outlying waters license transfers under s. 29.519 (2) (d): ~~\$25~~ \$50.

SECTION 55. 29.924 (4) of the statutes is amended to read:

29.924 (4) ACCESS TO STORAGE PLACES. The owner or occupant of any cold-storage warehouse or building used for the storage or retention of wild animals, or their carcasses, that are subject to regulation under this chapter shall permit the department and its wardens to enter and examine the premises subject to s. 66.0119. The owner or occupant, or the agent or employee of the owner or occupant, shall deliver to the officer any such wild animal or carcass, in his or her possession during the closed season the warehouse or building, that the officer has reasonable cause to believe is possessed or was taken in violation of the law, whether taken within or without the state. The owner or occupant, or the agent or employee of the owner or occupant, shall permit the department to examine and copy any record pertaining to the storage or retention of any wild animal either when the owner, occupant, agent, or employee is present or upon 24 hours' notice.

SECTION 56. 29.931 (2) (am) of the statutes is created to read:

29.931 (2) (am) If the department or its wardens seize any net or similar fishing device under par. (a), the owner shall reimburse the department for all costs associated with the seizure within 20 days after the department gives written notice to the owner of the owner's obligation to reimburse the department. The notice shall include the amount of the costs required to be reimbursed by the owner. If the owner does not reimburse the department as required under this paragraph, the owner shall forfeit not more than \$1,000 in addition to the costs of reimbursement. All reimbursement costs collected under this paragraph shall be credited to the appropriation under s. 20.370 (3) (mi).

SECTION 57. 29.971 (1) (b) of the statutes is amended to read:

29.971 (1) (b) For ~~having taking, transporting, acquiring, selling, purchasing, or possessing, or attempting to take, acquire, transport, sell, purchase, or possess, any fish in his or her possession, or failing to comply with any record-keeping requirement for fish,~~ in violation of this chapter and ~~the~~ that has a value of the fish under par. (d) ~~exceeds exceeding \$300 but does not exceed exceeding \$1,000,~~ by a fine of not ~~less than \$1,000 nor~~ more than \$5,000 or imprisonment for not more than 30 days or both.

SECTION 58. 29.971 (1) (c) of the statutes is amended to read:

29.971 (1) (c) A person ~~having taking, transporting, acquiring, selling, purchasing, or possessing, or attempting to take, acquire, transport, sell, purchase, or possess, any fish in his or her possession, or failing to comply with any record-keeping requirement for fish,~~ in violation of this chapter is guilty of a Class I felony if the value of the fish under par. (d) exceeds \$1,000.

SECTION 59. 29.971 (1) (d) of the statutes is renumbered 29.971 (1) (d) 2. and amended to read:

29.971 (1) (d) 2. Salmon, trout, and noncommercial game fish shall be valued for the purposes of pars. (b) and (c) on a ~~per fish per fish~~ basis according to the dollar amounts specified under s. 29.977 (1) (a) and (i) to (L).

3. Other species of commercial fish shall be valued on a ~~per fish basis according to the current average wholesale value. In this paragraph, "average wholesale value" means the average price received by producers on the date of the violation for fish in the form of the violative fish per-pound basis according to the average wholesale value of the fish. The department shall determine the average wholesale value of the fish by averaging the price received by 3 different wholesale fish dealers in this state for that species of fish on or about the date of the violation.~~

SECTION 60. 29.971 (1) (d) 1. and 4. of the statutes are created to read:

29.971 (1) (d) 1. In this paragraph, "average wholesale value" means the average purchase price paid by wholesale fish dealers on the date of a violation of this chapter as determined by the department after obtaining price information from 3 wholesale fish dealers in this state.

4. For purposes of making charging and penalty determinations under pars. (b) and (c), the value of fish from multiple violations committed by the same person in any 12-month period may be aggregated.

SECTION 61. 29.971 (1) (e) of the statutes is amended to read:

29.971 (1) (e) ~~Any person holding an approval issued under this chapter, upon his or her 2nd conviction within a 3-year period for violations of this chapter relating to possessing illegal fish, fishing with illegal gear, fishing in closed areas or refuges, fishing during a closed season, violation of quota fisheries or false reporting shall have all of his or her fishing and fish dealing licenses revoked and no fishing or fish dealing license may be issued to the person for at least one year after the date of conviction. During In addition to any other penalty under this section, during the period of revocation for 2 convictions under pars. (b) or (c) or a combination of 2 convictions under pars. (b) and (c) time that a person's commercial fishing license is revoked under sub. (12), the person may not engage in fishing on the water or ice in any manner, operate or assist in the operation of fishing gear or engage in the sale or transportation of fish. Any person holding a license under s. 29.519 (4) (1m) who has that license revoked under this paragraph, sub. (12) may apply for that license for that part of the license year following the period of revocation which is at least one year after the date of conviction and the department shall issue that license if all licensing criteria are met. The revoked license may not be issued to another person during the period of revocation.~~

SECTION 62. 29.971 (5) of the statutes is amended to read:

29.971 (5) For violation of s. 29.539, ~~except s. 29.539 (3m),~~ by a fine of not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 6 months or both. In addition, the court shall order the revocation of all hunting and sport fishing approvals issued to the person under this chapter and shall prohibit the issuance of any new hunting or sport fishing approvals under this chapter to the person for 5 years.

SECTION 63. 29.972 of the statutes is created to read:

29.972 Commercial fish reporting system. The department shall establish and maintain a commercial fish reporting system under which the department shall establish specific reporting or record-keeping requirements that apply to all of the following:

(1) Any person who has committed a certain number of violations of subch. VI, as determined by the department.

(2) Any person who holds a license issued under s. 29.519 (1m), and who is convicted of harvesting more than 1,000 pounds of fish above their annual quota, failing to report over 2,000 pounds of catch during a 12-month period, fishing during the closed season, or possessing 200 or more pounds of fish in violation of this chapter.

SECTION 64. 29.984 of the statutes is created to read:

29.984 Commercial fish protection surcharge. (1) LEVY OF COMMERCIAL FISH PROTECTION SURCHARGE. (a) If a court imposes a fine or forfeiture under s. 29.971 for the unlawful killing, catching, taking, transporting, sale, or possession of Great Lakes fish in violation of s. 29.503, or of fish in violation of s. 29.514 or 29.519, or for failing to comply with any record-keeping requirement for fish in violation of s. 29.503, 29.514, or 29.519, the court may impose a commercial fish protection surcharge that equals the amount specified for the fish under par. (b) or (bg).

(b) Except as provided in par. (bg), the amount of the commercial fish protection surcharge shall be as follows:

1. For any commercial fish, as determined by the department, an amount equal to the average wholesale value of the fish on the date of the violation. The department shall determine the average wholesale value of the fish by determining the wholesale value of such fish purchased by 3 different wholesale fish dealers in this state on or about the date of the violation.

2. For salmon, trout, and noncommercial game fish, an amount equal to the amount specified in s. 29.983 (1) (b) 9. to 12.

(bg) For a fine imposed under s. 29.971 (1) (b) or (c), the amount of the commercial fish protection surcharge shall be an amount equal to 3 times the average wholesale value of the fish. The department shall determine the average wholesale value of the fish by averaging the price received by 3 different wholesale fish dealers in this state for that species of fish on or about the date of the violation.

(c) If a fine or forfeiture is suspended in whole or in part, the commercial fish protection surcharge shall be reduced in proportion to the suspension unless the court directs otherwise.

(e) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the commercial fish protection surcharge required under this section. If the deposit is forfeited, the amount of the commercial fish protection surcharge shall be transmitted to the state treasurer under par. (f). If the deposit is returned, the commercial fish protection surcharge shall also be returned.

(f) The clerk of court shall collect and transmit to the county treasurer the commercial fish protection sur-

charge and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the state treasurer as provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit the amount of the commercial fish protection surcharge in the conservation fund.

(2) **USE OF COMMERCIAL FISH PROTECTION SURCHARGE FUNDS.** All moneys collected from commercial fish protection surcharges shall be credited to the appropriation under s. 20.370 (4) (kr).

SECTION 65. 29.987 (1) (a) of the statutes is amended to read:

29.987 (1) (a) If a court imposes a fine or forfeiture for a violation of a provision of this chapter or an order issued under this chapter, other than for a violation specified under s. 29.99 (1) (a), the court shall impose a natural resources surcharge under ch. 814 equal to 75% 75 percent of the amount of the fine or forfeiture.

SECTION 66. 29.99 of the statutes is created to read:

29.99 Great Lakes resource surcharge. (1) LEVY OF GREAT LAKES RESOURCE SURCHARGE. (a) If a court imposes a fine or forfeiture for a violation of s. 29.503 involving Great Lakes fish or for a violation of s. 29.514 or 29.519, the court shall impose a Great Lakes resource surcharge equal to 75 percent of the amount of the fine or forfeiture.

(b) If a fine or forfeiture is suspended in whole or in part, the Great Lakes resource surcharge shall be reduced in proportion to the suspension.

(c) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the Great Lakes resource surcharge prescribed in this section. If the deposit is forfeited, the amount of the Great Lakes resource surcharge shall be transmitted to the state treasurer under par. (d). If the deposit is returned, the Great Lakes resource surcharge shall also be returned.

(d) The clerk of the court shall collect and transmit to the county treasurer the Great Lakes resource surcharge and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the state treasurer as provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit the amount of the Great Lakes resource surcharge in the conservation fund.

(2) **USE OF GREAT LAKES RESOURCE SURCHARGE FUNDS.** All moneys collected from Great Lakes resource surcharges shall be credited to the appropriation under s. 20.370 (4) (kr).

SECTION 67. 29.991 of the statutes is created to read:

29.991 Fishing net removal surcharge. (1) LEVY OF FISHING NET REMOVAL SURCHARGE. (a) If a court imposes a forfeiture under s. 29.931 (2) (am) for failure to reimburse the department for costs associated with the seizure of a net or similar fishing device under s. 29.931 (2) (a), the court shall impose a fishing net removal surcharge in an amount equal to the sum of those costs plus

an amount equal to 75 percent of the amount of the forfeiture.

(b) If the forfeiture is suspended in whole or in part, the fishing net removal surcharge shall be reduced in proportion to the suspension.

(c) The clerk of the court shall collect and transmit to the county treasurer the fishing net removal surcharge and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the state treasurer as provided in s. 59.25 (3) (f) 2.

(2) DEPOSIT OF FISHING NET REMOVAL SURCHARGE FUNDS. All moneys collected from fishing net removal surcharges shall be deposited in the conservation fund.

SECTION 68. 30.51 (2) (c) 2. of the statutes is amended to read:

30.51 (2) (c) 2. A federally documented vessel which is a commercial fishing boat licensed operated under a license issued under s. 29.519.

SECTION 69. 814.75 (1) of the statutes is renumbered 814.75 (1m).

SECTION 70. 814.75 (1g) of the statutes is created to read:

814.75 (1g) The commercial fish protection surcharge under s. 29.984.

SECTION 71. 814.75 (12n) of the statutes is created to read:

814.75 (12n) The fishing net removal surcharge under s. 29.991.

SECTION 72. 814.75 (13m) of the statutes is created to read:

814.75 (13m) The Great Lakes resource surcharge under s. 29.99.

SECTION 73. 814.76 (1) of the statutes is renumbered 814.76 (1m).

SECTION 74. 814.76 (1g) of the statutes is created to read:

814.76 (1g) The commercial fish protection surcharge under s. 29.984.

SECTION 75. 814.76 (10m) of the statutes is created to read:

814.76 (10m) The Great Lakes resource surcharge under s. 29.99.

SECTION 76. 814.77 (1) of the statutes is renumbered 814.77 (1m).

SECTION 77. 814.77 (1g) of the statutes is created to read:

814.77 (1g) The commercial fish protection surcharge under s. 29.984.

SECTION 78. 814.77 (5m) of the statutes is created to read:

814.77 (5m) The fishing net removal surcharge under s. 29.991.

SECTION 79. 814.77 (6m) of the statutes is created to read:

814.77 (6m) The Great Lakes resource surcharge under s. 29.99.

SECTION 80. Nonstatutory provisions.

(1) The department of natural resources may use the procedure under section 227.24 of the statutes to promulgate rules under this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection shall remain in effect until the date on which permanent rules take effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 81. Effective date.

(1) This act takes effect on July 1, 2005, or on the day after publication, whichever is later.