

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0707/P1dn
RNK:kjf:ch

January 7, 2005

This is a redraft of LRB 2003-3653/P1. This redraft incorporates changes requested by Tom Hansen and Pete Flaherty of DNR. Please review this redraft very closely to ensure that the changes are consistent with your intent.

Please note that I have advanced the delayed effective date in this draft so that the effective date is July 1, 2005 or the day after publication, whichever occurs first. Is this O.K.?

Please also note that the assessments created in last sessions draft have been changed to surcharges. This change was made consistent with 2003 Wisconsin Act 139 in which all assessments were renamed surcharges and listed in ch. 814 of the statutes.

Also, s. 973.05 (2m), stats., specifies how fine payments made by a defendant are to be applied to the many surcharges that exist under current law. In the next version of the draft, the commercial fish protection and Great Lakes resource surcharges should be included in this provision. What priority do you want to give these surcharges?

The draft includes a nonstatutory provision that gives DNR emergency rule-making authority. Under the draft, the emergency rules are effective for approximately one year or on the date on which permanent rules take effect, whichever is sooner. Please note that under s. 227.137, created by 2003 Wisconsin Act 118, the secretary of administration may require DNR to prepare an economic impact report for a proposed rule before the rule is submitted to the Legislative Council Staff. Under s. 227.138, if the secretary requires DNR to prepare an economic impact report, DOA must review the proposed rule and the economic impact report and issue its own report and the secretary of administration must approve the rule before DNR may submit the rule to the Legislative Council Staff. These procedures might result in a delay in the rule-making process. You might, therefore, want to consider having the draft provide that the emergency rules remain in effect for a period longer than one year.

Please feel free to contact me if you have any questions concerning this draft.

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