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2003 - 2004 LEGISLATURE

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LRB-3653/PI  
RNK:kmg:rs  
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

PWF

D - Note

regen. cat.

1 AN ACT *to repeal* 29.407 (2) (c), 29.503 (5) (b), 29.519 (4m) (e) and 29.519 (5) (d);  
2 *to renumber and amend* 29.407 (2) (b), 29.503 (4) (d) and 29.971 (1) (d); *to*  
3 *amend* 29.407 (2) (a), 29.503 (1) (b), 29.503 (1) (e), 29.503 (4) (title), 29.503 (4)  
4 (a), 29.503 (4) (b), 29.503 (5) (title), 29.503 (5) (a), 29.503 (6) (b) 2., 29.503 (6) (c),  
5 29.503 (7), 29.519 (1) (c), 29.519 (2) (d), 29.519 (2) (f), 29.519 (2) (fm), 29.519 (4m)  
6 (c) (intro.), 29.519 (5) (a), 29.519 (5) (b), 29.519 (5) (c), 29.519 (6) (intro.), 29.519  
7 (6) (a), 29.519 (6) (b), 29.519 (6m), 29.539 (2), 29.539 (3), 29.563 (7) (a) 1., 29.563  
8 (7) (b) 1., 29.563 (7) (c) 1., 29.924 (4), 29.971 (1) (b), 29.971 (1) (c), 29.971 (1) (e),  
9 29.987 (1) (a), 30.51 (2) (c) 2., 59.25 (3) (f) 2. and 59.40 (2) (m); and *to create*  
10 20.370 (4) (kr), 29.001 (41m), 29.407 (2) (b) 1., 29.503 (1) (cm), 29.503 (4) (d) 2.,  
11 29.503 (4) (d) 3., 29.503 (4) (e), 29.503 (5) (am), 29.503 (5) (br), 29.503 (5) (c),  
12 29.503 (5) (d), 29.519 (2) (e), 29.519 (5) (dm), 29.519 (6) (c), 29.519 (6g), 29.539  
13 (3m), 29.931 (2) (am), 29.971 (1) (d) 1. and 4., 29.972, 29.984, 29.99 and 29.991  
14 of the statutes; **relating to:** licensing, vehicle identification, and  
15 record-keeping requirements for wholesale fish dealers and commercial

*surcharges,*  
*providing an exemption from emergency rule procedures, extending the time limit for emergency rule procedures*

1 fishers, inspections of wholesale fish dealer records and premises, commercial  
2 fishing boats, periods when a commercial fisher may fish on the waters of Green  
3 Bay, the sale and purchase of eggs from certain trout and salmon, commercial  
4 fishing approval fees, seizure of certain fishing devices, establishing a  
5 commercial fish reporting system, imposing certain assessments, making an  
6 appropriation, and providing penalties.

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

This is a preliminary draft. An analysis will be provided in a later version of the draft.

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

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

8 20.370 (4) (kr) *Commercial fish protection and Great Lakes resource*

9 ~~assessments~~ *assessments* All moneys received from commercial fish protection ~~assessments~~ *assessments*

10 ~~under s. 29.984~~ *surcharges* and from Great Lakes resource ~~assessments~~ *assessments* under s. 29.99 ~~for~~ *for research relating to*

11 ~~improve and promote commercial fishing in the Great Lakes.~~ *fish*

\*\*\*\*NOTE: I did not refer to the term "Great Lakes fishery" as your proposed language requested because that term is not used nor defined elsewhere in the statutes. Does the language above meet your intent?

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

13 29.001 (41m) "Great Lakes fish" means lake trout, siscowet, whitefish, chubs,  
14 yellow perch, menominee, lake herring, smelt, alewife, and burbot.

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

16 29.407 (2) (a) No person may transport or cause to be transported, or deliver  
17 or receive or offer to deliver or receive for transportation, any game fish taken from

1 outlying waters unless the person complies with all applicable requirements under  
2 pars. (b) ~~to~~ <sup>✓</sup> and (d).

3 SECTION 4. 29.407 (2) (b) <sup>x</sup> of the statutes is renumbered 29.407 (2) (b) 2. and  
4 amended to read:

5 29.407 (2) (b) 2. No ~~green~~ fresh fish of any variety except lawfully taken suckers  
6 may be shipped from any port located on outlying waters during the closed season  
7 for the fish, except the first 3 days of the closed season.

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

9 29.407 (2) (b) 1. In this paragraph, “fresh fish” means any fish that has not been  
10 frozen or smoked.

11 SECTION 6. 29.407 (2) (c) <sup>x</sup> of the statutes is repealed.

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

13 29.503 (1) (b) “Fish” means any processed or unprocessed fish of those species  
14 which are found in the waters of the state as defined in s. 281.01 (18), including parts  
15 of fish, fish eggs, or fish products. “Fish” does not include minnows produced and sold  
16 or purchased as bait.

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

18 29.503 (1) (cm) “Record” includes any material on which written, drawn,  
19 printed, spoken, visual, or electromagnetic information is recorded or preserved,  
20 regardless of physical form, that relates to the production, storage, transportation,  
21 purchase, sale, trade, barter, or other acquisition or disposition of fish by commercial  
22 fishers or wholesale fish dealers.

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

24 29.503 (1) (e) “Wholesale fish dealer” means any person who buys, barter,  
25 obtains, sells ~~or~~, solicits, or processes fish in any manner for himself or herself or any

1 other person for sale to anyone other than a consumer; but no established retail store  
2 or locker plant is a “wholesale fish dealer” solely as the result of the sale of fish to a  
3 restaurant, hotel or tavern at no reduction in the retail price charged other retail  
4 customers. A producer of fish, except as otherwise hereinafter provided, who sells  
5 fish directly to retailers is a wholesale fish dealer. Hotels, meat markets, grocery  
6 stores, restaurants and taverns are retailers, except when they sell fish for resale,  
7 in which case they are wholesale fish dealers.

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

9 29.503 (4) (title) TAGGING AND LABELING, AND VEHICLE IDENTIFICATION  
10 REQUIREMENTS.

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

12 29.503 (4) (a) *Tag, label or receipt required.* No wholesale fish dealer may sell,  
13 buy, barter, trade, possess, control ~~or~~, transport, or cause to be transported any fish  
14 unless the fish are tagged and labeled in accordance with the law of the state or  
15 country where they were taken or, if no label or tag is required under the law of that  
16 state or country, unless the fish are accompanied by a receipt or invoice from the  
17 person from whom the fish were purchased or obtained.

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

19 29.503 (4) (b) *Special tagging requirements for lake trout.* No wholesale fish  
20 dealer or producer of fish may sell, buy, barter, trade, possess, control ~~or~~, transport,  
21 or cause to be transported any lake trout unless the lake trout is ~~tagged with a valid,~~  
22 ~~current commercial fish tag issued or authorized~~ identified in the form and manner  
23 required by the department ~~or by a governmental agency of another state or country.~~  
24 ~~If a licensed wholesale fish dealer gives the department at least 12 hours' notice of~~  
25 ~~the date, time and location of arrival at the state line of lawfully possessed, untagged~~

1 ~~lake trout which are intended for importation into this state by the licensed~~  
2 ~~wholesale fish dealer, the department or its representatives shall meet the shipment~~  
3 ~~of lake trout and attach a "foreign lake trout tag" to each fish or seal the shipment~~  
4 ~~with a department seal which may not be removed prior to delivery to the licensed~~  
5 ~~wholesale fish dealer. The department or its representative shall tag the lake trout~~  
6 ~~in a timely and orderly manner, and so as not to create any damage or spoilage to the~~  
7 ~~fish. The tag shall be attached through the gills and mouth of whole lake trout, or~~  
8 ~~in a manner which results in 2 complete fillets joined by the tag. For tagging of other~~  
9 ~~forms of lake trout, the department shall promulgate rules to determine the manner~~  
10 ~~in which the tag shall be attached to or accompany the trout, and the conditions, if~~  
11 ~~any, under which the tag may be separated from the trout.~~

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

14       29.503 (4) (d) 1. No wholesale fish dealer or producer of fish may transport or  
15 cause to be transported, or deliver or receive for transportation from the seller of fish  
16 to the buyer of fish, any container, package, or box containing any fish unless it is  
17 labeled legibly in a manner which discloses the name, address and license number  
18 of the consignor which shall be identical to that on the license; the name and address  
19 of the consignee; and each kind of fish contained in the package or box. If the  
20 shipment of fish is accompanied by an invoice containing the name, address and  
21 license number of the consignor, which shall be identical to that on the license; the  
22 name, address and license number, if any, of the consignee; the date of shipment from  
23 the consignor; the kinds of fish, the pounds of each kind and the description of the  
24 fish being shipped; and the signature of the person completing the invoice, the kinds  
25 of fish contained may be omitted from the package or box labels. Producers shall only

1 ~~be required to label or provide invoices for packages or boxes of fish being transported~~  
2 ~~by vehicle or boat for purposes of sale. This paragraph does not apply to a producer~~  
3 ~~of fish on the Mississippi River~~ accompanied by a bill of lading or an invoice that  
4 contains the name, address, and license number of the seller and of the buyer.

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

6 29.503 (4) (d) 2. The bill of lading or invoice required under subd. 1. shall  
7 contain the name, address, and license number of the seller and the buyer of the fish  
8 covered by the bill of lading or invoice and shall specify the point of origin of the fish,  
9 the point of destination of the fish, the species of fish, the weight of each species of  
10 fish, and the number of containers, packages, or boxes covered by the bill of lading  
11 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.*

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

13 29.503 (4) (d) 3. This paragraph does not apply to a producer of fish if the  
14 producer is transporting fish from the producer's boat or landing to a processing  
15 facility in this state.

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

17 29.503 (4) (e) *Vehicle identification requirements.* 1. No wholesale fish dealer  
18 or producer of fish may transport or cause to be transported any fish in a vehicle  
19 unless the ownership of the vehicle is marked in a manner prescribed by the  
20 department that identifies the vehicle's ownership and that confirms that the vehicle  
21 contains fish.

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

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

1 29.503 (5) (title) RECORDS AND REPORTS INVENTORIES.

*legible, written*

2 SECTION 18. 29.503 (5) (a) of the statutes is amended to read: *in the English language*

3 29.503 (5) (a) *Records*. Each wholesale fish dealer shall keep ~~records~~ *legible, written* records of all fish

4 purchased, sold, possessed, or obtained in his or her capacity as a wholesale fish

5 dealer, by any means including by trade or barter and shall keep records of all fish *more*

6 disposed of in his or her capacity as a wholesale fish dealer for any reason, including

7 as a result of spoilage or by donation. ~~The records shall be kept in the manner~~

8 ~~required and on forms provided by the department.~~ The record shall include the

9 name, address, and fish dealer license number of the purchaser; the name, address,

10 and wholesale fish dealer or commercial fishing license number of the person from

11 whom the fish were purchased or obtained; the date of the transaction; the kinds of

12 fish, the pounds *or kilograms* of each kind and the description of the fish purchased or obtained;

13 and the signature of the person completing the record. If the record relates to a retail

14 sale by the wholesale fish dealer, the record shall also include the condition of the fish

15 sold. *only the date of the transaction, and the kind, weight, and*

\*\*\*\*NOTE: The draft language provided for this provision was unclear. Did you intend that there be entirely different record-keeping requirements for wholesale and retail sales? Please review this provision closely to determine if it accomplishes your intent.

16 SECTION 19. 29.503 (5) *(6)* (am) of the statutes is created to read:

17 29.503 (5) *(6)* (am) *inspection* Production of records. 1. Upon the request of the department,

18 a wholesale fish dealer licensed in this state shall produce all records relating to the

19 purchase, acquisition, sale, trade, barter, storage, or disposition of fish that are kept

20 at a residence, dwelling, or location other than the wholesale fish dealer's place of

21 business, within 24 hours of such request, for inspection or copying. If the wholesale

22 fish dealer's records are located outside of this state, the wholesale fish dealer may

*move to pg 9 after insert 9-10*

to be moved to pg 9.

1 mail the records to the department for inspection or copying. The records shall be  
2 mailed within 24 hours of receipt of the department's request.

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

6 SECTION 20. 29.503 (5) (b) of the statutes is repealed.

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

8 29.503 (5) (br) *Inventory*. Each wholesale fish dealer shall prepare an annual  
9 inventory of Great Lakes fish and all species of sturgeon owned by the wholesale fish  
10 dealer or in the dealer's possession or control at the time that the inventory is  
11 prepared, including such fish maintained in cold storage facilities. The inventory  
12 shall be furnished to the department within 15 days after the inventory is completed.

13 The inventory shall be recorded on a form *available from* furnished by the department and shall  
14 include the weight of the fish in pounds *or kilograms*, the species of the fish, the condition of the  
15 fish, and the address of the location of the fish.

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

17 29.503 (5) (c) *Requirements*. No wholesale fish dealer, or employee of a  
18 wholesale fish dealer, may possess, control, store, transport, or cause to be  
19 transported any fish for which there is no record or *for which there is no* inventory as required under this  
20 subsection.

\*\*\*\*NOTE: What is par. (c) intended to do that pars. (a) and (br) do not do? It seems that par. (c) is redundant. At the very least, par. (c) appears to overlap with the requirements of par. (a).

21 SECTION 23. 29.503 (5) (d) of the statutes is created to read:

22 29.503 (5) (d) *Record retention and confidentiality*. 1. Each wholesale fish  
23 dealer shall retain all records and inventories required under this *sub* section for a period



available from

1 of at least 5 years from the date on which the record or inventory was created. Each  
2 wholesale fish dealer shall notify the department annually, on forms ~~provided by the~~  
3 department, of the location of the dealer's records and inventories.

4 2. Upon the written request of a wholesale fish dealer to the department, the  
5 department shall ~~maintain the confidentiality of the information contained on each~~  
6 ~~record or inventory furnished by the dealer to the department, except that the~~  
7 ~~information may be disclosed by the department in a statistical summary or report~~  
8 ~~if the summary or report does not identify the dealer by name or license number and~~  
9 ~~does not disclose any investigation or enforcement action concerning the dealer.~~

\*\*\*\*NOTE: The language provided for subd. 1., above, specified that all records required to be maintained by wholesale fish dealers under ch. 29 must be kept for 5 years. I have changed this language to refer only to the records required to be kept under s. 29.503. Is this consistent with your intent? If not, please identify the other records that you want the dealers to retain for 5 years.

Insert  
9-9

Insert  
9-10

insert  
from  
pg. 7

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

11 29.503 (6) (b) 2. To inspect fish stored or in the possession of a wholesale fish  
12 dealer, inspect or copy records or reports of a wholesale fish dealer, and to inspect  
13 buildings, structures, vehicles, boats, equipment and materials related to a  
14 wholesale fish dealer's business.

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

16 29.503 (6) (c) *Failure to produce records or to permit inspection.* No wholesale  
17 fish dealer, operator of a vehicle or boat for a wholesale fish dealer or employee or  
18 person acting on behalf of a wholesale fish dealer may prohibit entry or prohibit an  
19 inspection to be conducted as authorized under this subsection, or refuse to produce  
20 records as required under this subsection, unless a court restrains or enjoins the  
21 entry of, inspection, or production.

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

1           29.503 (7) EXEMPTION. This section does not apply to fish produced in a state  
 2 or municipal fish hatchery or to farm-raised fish that are bought, bartered, sold,  
 3 obtained, processed, solicited, or transported by a person who operates a fish farm  
 4 registered under s. 95.60 (3m) or by that person's employees.

insert  
10-4

5           ~~SECTION 27. 29.519 (1) (c) of the statutes is amended to read:~~

6           29.519 <sup>(1m) ← (3)</sup> ~~(1)~~ (c) The department may promulgate rules defining the  
 7 qualifications of licensees in the reasonable exercise of this authority, giving due  
 8 consideration to residency, past record including compliance with the ~~reporting~~  
 9 records requirements of sub. (5), fishing and navigation ability and quantity and  
 10 quality of equipment possessed. Rules relating to licensing commercial fishers shall  
 11 be based on criteria provided by the commercial fishing boards under sub. (7).

insert  
10-11

12           SECTION 28. 29.519 (2) (d) of the statutes is amended to read:

13           29.519 (2) (d) *Transfer of license.* ~~The department may, upon application,~~  
 14 ~~permit the transfer of a license to any similar boat during the time a licensed boat~~  
 15 ~~is disabled or undergoing repairs or upon the sale of a licensed boat.~~ The department  
 16 shall promulgate rules governing the transfer of commercial fishing licenses  
 17 between individuals equally qualified to hold the licenses and to members of a  
 18 licensee's immediate family provided the rules assure the wise use and conservation  
 19 of the fish resources being harvested under the license. The rules shall relate only  
 20 to those waters in which the number of licenses is limited. The commercial fishing  
 21 boards, under sub. (7), shall approve or deny transfers of commercial fishing licenses  
 22 in accordance with the rules promulgated under this section. For purposes of s.  
 23 29.024 (2g) and (2r), a transfer of a license under this section shall be considered an  
 24 issuance of a license to the transferee.

25           SECTION 29. 29.519 (2) (e) of the statutes is created to read:

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

\*\*\*NOTE: I have drafted this language as requested but I do not understand what it means. How does the department transfer a boat to a license? Also, who may apply for this transfer?

4 SECTION 30. 29.519 (2) (f) of the statutes is amended to read:

5 29.519 (2) (f) *Licensed Commercial fishing boats.* Any licensed boat used by  
 6 a resident licensee shall be from a port of record in this state, its hailing port shall  
 7 be a port in this state, and it shall be a registered or documented boat of this state.  
 8 Any licensed boat used by a nonresident licensee shall be a registered or documented  
 9 boat of the state of residency.

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

11 29.519 (2) (fm) *Attending boats.* Each licensed boat in excess of 25 feet in  
 12 overall length used by a commercial fisher may be accompanied by and work with  
 13 one attending boat without an additional license fee for the attending boat. Any  
 14 attending boat that is a motorboat under s. 30.50 (2) shall be ~~a~~ registered boat under  
 15 s. 30.51. An attending boat shall bear the name, if any, of the licensed boat listed on  
 16 the commercial fishing license issued under sub. <sup>(1m)</sup> (1) and may be used only for  
 17 attending the licensed that boat.

*Insert 11-17* →

18 SECTION 32. 29.519 (4m) (c) (intro.) of the statutes is amended to read:

19 29.519 (4m) (c) (intro.) A commercial fisher licensed under sub. <sup>(1m)</sup> (1) may fish by  
 20 trawl for the total allowable commercial harvest of smelt, as set by rule by the  
 21 department, on the waters of Green Bay at any time during ~~the period beginning one~~  
 22 ~~hour after sunset and ending 3 hours after sunrise~~ nighttime if all of the following  
 23 apply:

1           **SECTION 33.** 29.519 (4m) <sup>4</sup>(e) of the statutes is repealed.

2           **SECTION 34.** 29.519 (5) (a) of the statutes is amended to read:

3           29.519 (5) (a) *Records and reports requirements.* Each commercial fishing  
4 licensee fisher shall maintain and submit records ~~and provide reports as to the~~  
5 department in the form and manner required by the department ~~by rule~~.

6           **SECTION 35.** 29.519 (5) (b) of the statutes is amended to read:

7           29.519 (5) (b) *Fishing records.* The licensee commercial fisher shall keep and  
8 submit a complete, legible and accurate record of the licensee's daily fishing  
9 activities, in the form and manner required ~~and on forms provided~~ by the  
10 department. The record shall include the complete name, address and commercial  
11 fishing license number of the licensee; the name and number of the boat fished from;  
12 the location fished; the month and year for which the record is being kept ~~for~~; the date  
13 of each day's fishing activity; the kind and amount of commercial fishing gear used;  
14 the kind of fish caught and the number of pounds of each kind of fish caught; and the  
15 signature of the licensee.

16           **SECTION 36.** 29.519 (5) (c) of the statutes is amended to read:

17           29.519 (5) (c) *Catch Fish disposition records.* The licensee commercial fisher  
18 shall keep a complete, legible and accurate record of the disposition of landed catch,  
19 in the form and manner required ~~and on forms provided~~ by the department. The  
20 record shall include the complete name, address and commercial fishing license  
21 number of the licensee; for each wholesale sale, the complete name, address and  
22 wholesale fish dealer license number, if any, of the buyer and the kinds of fish sold,  
23 the number of pounds of each kind and the description of the fish sold and the date  
24 of the transaction; for direct retail sales, the kinds of fish sold and the total pounds  
25 of each kind; and the signature of the licensee. In this paragraph, "landed catch"

1 means those fish or fish parts caught in commercial fishing operations and brought  
2 to shore to utilize or to sell or otherwise ~~utilize~~ dispose of.

3 **SECTION 37.** 29.519 (5) (d) of the statutes is repealed.

4 **SECTION 38.** 29.519 (5) (dm) of the statutes is created to read:

5 29.519 (5) (dm) *Record retention and confidentiality.* 1. Each commercial  
6 fisher shall maintain and retain all records required under this subsection for a  
7 period of at least 5 years from the date on which the record was created. Each  
8 commercial fisher shall notify the department annually, on forms ~~provided by the~~  
9 department, of the location of the commercial fisher's records. *(available from*

10 2. Upon the written request of a commercial fisher to the department, the  
11 department shall maintain the confidentiality of the information contained on each  
12 record furnished by the commercial fisher to the department, except that the  
13 information may be disclosed by the department in a statistical summary or report  
14 if the summary or report does not identify the commercial fisher by name or license  
15 number and does not disclose any investigation or enforcement action concerning the  
16 commercial fisher.

\*\*\*\*NOTE: The language provided for subd. 1., above, specified that all records required to be maintained by commercial fishers under ch. 29 must be kept for 5 years. I have changed this language to refer only to the records required to be kept under s. 29.519 (5). Is this consistent with your intent? If not, please identify the other records that you want the commercial fishers to retain for 5 years.

17 **SECTION 39.** 29.519 (6) (intro.) of the statutes is amended to read:

18 29.519 (6) INSPECTION. (intro.) For purposes of enforcement of this section,  
19 wardens or department employees duly authorized and designated by the secretary,  
20 upon presenting appropriate credentials to the licensee commercial fisher, crew  
21 member, or agent in charge, are authorized:

22 **SECTION 40.** 29.519 (6) (a) of the statutes is amended to read:

insert  
13-16  
insert  
13-17

1           29.519 (6) (a) To enter any building or structure, excluding a dwelling place,  
 2           in which ~~records, nets, or fish are stored~~ <sup>or</sup> ~~or held~~ <sup>or</sup> ~~in which fish are processed~~ <sup>packed</sup> ~~packed~~ <sup>or</sup> ~~or held~~ <sup>or</sup> ~~or in which fish or nets are packed~~, or to enter any boat or vehicle being used  
 3           to transport nets or fish when the owner or agent in charge is present or upon 8 hours'  
 4           notice at other times.

\*\*\*\*NOTE: I have assumed for purposes of this provision that nets are not "processed." Is my assumption correct?

6           **SECTION 41.** 29.519 (6) (b) of the statutes is amended to read:

7           29.519 (6) (b) To inspect buildings, structures, boats or vehicles, to inspect all  
 8           pertinent equipment including nets used or stored in the places to be inspected, to  
 9           inspect or copy all records of commercial fishing activity, of fish storage, and of fish  
 10          disposition, and to inspect any fish stored, processed, packed or held in the places to  
 11          be inspected.

12          **SECTION 42.** 29.519 (6) (c) of the statutes is created to read:

13          29.519 (6) (c) To direct a commercial fisher, a crew member, or an agent in  
 14          charge to empty any fish box that is larger than a standard fish box. If so directed,  
 15          the commercial fisher, crew member, or agent shall empty such fish box.

\*\*\*\*NOTE: Are the terms "fish box" and "standard fish box" commonly understood terms in the commercial fishing industry? If not, definitions may be advisable.

16          **SECTION 43.** 29.519 (6g) of the statutes is created to read:

17          29.519 (6g) RECORD PRODUCTION. If the department requests that a commercial  
 18          fisher produce any record relating to the production, acquisition, sale, trade, barter,  
 19          storage, or disposition of fish, and that record is kept by the commercial fisher at a  
 20          residence or at a location other than the commercial fisher's place of business, the  
 21          commercial fisher shall provide that record, within 24 hours of the request, to the  
 22          department for inspection or copying.

1           **SECTION 44.** 29.519 (6m) of the statutes is amended to read:

2           29.519 **(6m)** INTERFERENCE WITH INSPECTIONS. No licensee commercial fisher,  
3 licensed crew member, operator of a vehicle or boat for the licensee commercial fisher,  
4 or an employee acting on behalf of the licensee commercial fisher may prohibit entry  
5 ~~or~~, prohibit an inspection to be conducted, fail or refuse to produce any record, or fail  
6 or refuse to immediately empty a fish box or container as authorized provided under  
7 sub. (6) ~~unless a court restrains or enjoins the entry or inspection.~~ The department  
8 may not conduct an inspection or examine a person's records under sub. (6) if such  
9 action has been enjoined by court order.

10           **SECTION 45.** 29.539 (2) of the statutes is amended to read:

11           29.539 (2) ~~No~~ Except as provided in subs. (3) and (3m), no fish taken by hook  
12 and line from outlying waters, except rough fish, may be sold, bartered or traded in  
13 any manner.

14           **SECTION 46.** 29.539 (3) of the statutes is amended to read:

15           29.539 (3) The eggs from trout and salmon that are not farm-raised fish and  
16 that are lawfully taken and possessed under this chapter are exempted from this  
17 section if removed from the fish. ~~The whole fish shall be taken to the buyer of the~~  
18 ~~eggs and the eggs removed in the presence of the buyer. The fish carcass shall be~~  
19 ~~legally disposed of~~ as provided under sub. (3m).

20           **SECTION 47.** 29.539 (3m) of the statutes is created to read:

21           29.539 (3m) The eggs from trout and salmon that are not farm-raised fish may  
22 not be sold or purchased unless the eggs are first removed from the whole fish in the  
23 presence of the buyer. The fish carcass shall be legally disposed of. Eggs that are  
24 removed in accordance with this subsection may subsequently be sold or purchased

25           without the fish, *subject to any licensing requirement*  
*under s. 29.503*

1           **SECTION 48.** 29.563 (7) (a) 1. of the statutes is amended to read:

2           29.563 (7) (a) 1. Outlying waters: \$899.25 for the first licensed boat and

3           \$899.25 for each additional licensed boat that is listed on a license issued under s.

4           29.519 (1).<sup>m</sup>

5           **SECTION 49.** 29.563 (7) (b) 1. of the statutes is amended to read:

6           29.563 (7) (b) 1. Outlying waters: \$6,499.25 for the first licensed boat and

7           \$6,499.25 for each additional licensed boat that is listed on a license issued under s.

8           29.519 (1).<sup>m</sup>

9           **SECTION 50.** 29.563 (7) (c) 1. of the statutes is amended to read:

10          29.563 (7) (c) 1. Outlying waters license transfers under s. 29.519 (2) (d): \$25

11          \$50.

\*\*\*\*NOTE: I did not include the word "boat" as indicated in the submitted language because the cross-reference to s. 29.519 (2) (d) is sufficient to describe the type of license to which this provision applies.

12          **SECTION 51.** 29.924 (4) of the statutes is amended to read:

13          29.924 (4) ACCESS TO STORAGE PLACES. The owner or occupant of any

14          cold-storage warehouse or building used for the storage or retention of wild animals,

15          or their carcasses, that are subject to regulation under this chapter shall permit the

16          department and its wardens to enter and examine the premises subject to s. 66.0119.

17          The owner or occupant, or the agent or employee of the owner or occupant, shall

18          deliver to the officer any such wild animal or carcass, in his or her possession during

19          ~~the closed season~~ the warehouse or building, that the officer has reasonable cause

20          to believe is possessed or was taken in violation of the law, whether taken within or

21          without the state. The owner or occupant, or the agent or employee of the owner or

22          occupant, shall permit the department to examine and copy any record pertaining



1 to the storage or retention of any wild animal either when the owner, occupant, agent,  
2 or employee is present or upon 24 hours' notice.

3 **SECTION 52.** 29.931 (2) (am) of the statutes is created to read:

4 29.931 (2) (am) If the department or its wardens seize any net or similar fishing  
5 device under par. (a), the owner shall reimburse the department for all costs  
6 associated with the seizure within 20 days after the department gives written notice  
7 to the owner of the owner's obligation to reimburse the department. The notice shall  
8 include the amount of the costs required to be reimbursed by the owner. If the owner  
9 does not reimburse the department as required under this paragraph, the owner  
10 shall forfeit not more than \$1,000. *in addition to the costs of reimbursement* All reimbursement costs collected under this  
11 paragraph shall be *deposited in the conservation fund. credited to the appropriation under s. 20.370 (3) (mi).*

\*\*\*\*NOTE: The language that was provided for this draft stated that the reimbursement obligation applies to the costs associated with the seizure, destruction, or sale of a fishing net that is a public nuisance. Current law only authorizes the seizure of such objects under s. 29.931 (2). It does not specifically authorize sale or destruction. Accordingly, I have drafted this provision to refer only to seizure.

12 **SECTION 53.** 29.971 (1) (b) of the statutes is amended to read: *or failing to report any fish,*

13 29.971 (1) (b) For ~~having taking, transporting, acquiring, selling, purchasing,~~  
14 or possessing, or attempting to take, acquire, transport, sell, purchase, or possess,  
15 any fish in his or her possession in violation of this chapter and the that has a value  
16 of the fish under par. (d) ~~exceeds~~ exceeding \$300 but does not exceed exceeding  
17 \$1,000, by a fine of not less than \$1,000 nor more than \$5,000 or imprisonment for  
18 not more than 30 days or both.

19 **SECTION 54.** 29.971 (1) (c) of the statutes, ~~as affected by 2001 Wisconsin Act 109,~~  
20 is amended to read:

21 29.971 (1) (c) A person ~~having~~ taking, transporting, acquiring, selling,  
22 purchasing, or possessing, or attempting to take, acquire, transport, sell, purchase,

*or failing to report any fish,*

1 or possess, any fish in his or her possession in violation of this chapter is guilty of a  
2 Class I felony if the value of the fish under par. (d) exceeds \$1,000.

3 SECTION 55. 29.971 (1) (d) of the statutes is renumbered 29.971 (1) (d) 2. and  
4 amended to read:

5 29.971 (1) (d) 2. Salmon, trout, and noncommercial game fish shall be valued  
6 for the purposes of pars. (b) and (c) on a ~~per fish~~ per-fish basis according to the dollar  
7 amounts specified under s. 29.977 (1) (a) and (i) to (L).

8 3. Other species of commercial fish shall be valued on a ~~per fish~~ per-fish basis according  
9 to the ~~current average wholesale value~~. In this paragraph, "average wholesale  
10 value" means the average price received by producers on the date of the violation for

11 ~~fish in the form of the violative fish per-pound basis according to the average retail~~  
12 value of the fish on the date of the violation. *wholesale*

\*\*\*NOTE: How is valuing a fish on a "per-pound basis" different than valuing a fish on a "per-fish" basis?

13 SECTION 56. 29.971 (1) (d) 1. and 4. of the statutes are created to read:

14 29.971 (1) (d) 1. In this paragraph, "average ~~retail~~ wholesale value" means the average  
15 purchase price paid by ~~consumers to retailers~~ wholesale fish dealers on the date of a violation of this chapter  
16 as determined by the department after obtaining price information from 3 ~~retailers~~  
17 wholesale fish dealers in this state.

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

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

22 29.971 (1) (e) Any person holding an approval issued under this chapter, upon  
23 his or her ~~2nd~~ 2nd conviction within a ~~3-year~~ 3-year period for violations of this chapter relating

*In addition to any other penalty under this section, during*

1 to possessing illegal fish, fishing with illegal gear, fishing in closed areas or refuges,  
 2 fishing during a closed season, violation of quota fisheries or false reporting shall  
 3 have all of his or her fishing and fish dealing licenses revoked and no fishing or fish  
 4 dealing license may be issued to the person for at least one year after the date of  
 5 conviction. ~~During the period of revocation for 2 convictions under pars. (b) or (c) or~~  
 6 ~~a combination of 2 convictions under pars. (b) and (c) time that a person's commercial~~  
 7 fishing license is revoked under sub. (12), the person may not engage in fishing on  
 8 the water or ice in any manner, operate or assist in the operation of fishing gear or  
 9 engage in the sale or transportation of fish. Any person holding a license under s.  
 10 29.519 ~~(1)~~ <sup>(1m)</sup> who has that license revoked under ~~this paragraph~~, sub. (12) may apply  
 11 for that license for that part of the license year following the period of revocation  
 12 which is at least one year after the date of conviction and the department shall issue  
 13 that license if all licensing criteria are met. The revoked license may not be issued  
 14 to another person during the period of revocation.

insert  
19-14

SECTION 58. 29.972 of the statutes is created to read:

225 **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 <sup>m</sup>(1), 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.

\*\*\*\*NOTE: I did not call the commercial fish reporting system a "repeat offenders monitoring system" as provided in the submitted draft language because, under sub. (2), a person need not be a repeat offender to be subject to the system.

*surcharges under s. 29.971*

SECTION 59. 29.984 of the statutes is created to read:

**29.984 Commercial fish protection assessments. (1) LEVY OF COMMERCIAL**

FISH PROTECTION ASSESSMENT. (a) If a court imposes a fine or forfeiture 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, the court may impose a commercial fish protection assessment that equals the amount specified for

the fish under par. (b) or (bg).

(b) The amount of the commercial fish protection assessment shall be as follows:

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

\*\*\*\*NOTE: This provision needs considerable revision. With regard to subd. 1., the language provided was unclear. The language said that the amount of the assessment was to be determined on a "per-pound" basis for commercial fish but did not indicate what the amount of the assessment should be. And I do not know what it means to value fish for this purpose on a per-pound basis. I have, therefore, made certain assumptions in drafting this language so please look at it very closely to see if it is consistent with your intent. With regard to subd. 2., there are several problems. The language provided said that the amount of the assessment is the amount under s. 29.978 (1) (b) 9. to 12. This cross-reference does not exist in current law. I have cross-referenced s. 29.983 (1) (b) instead. Is this consistent with your intent? Also, the use of this cross-reference is confusing. For example, where does salmon fall within that cross-reference? It would be much clearer to specify the assessment amount within the newly created language rather than by cross-reference. Finally, subd. 1. refers to commercial fish and subd. 2. refers to noncommercial game fish. Should there also be a penalty for noncommercial fish that aren't game fish?

*Insert 20-15*

*or for failing to report any fish in violation of s. 29.503 or s. 29.519,*

1 (c) If a fine or forfeiture is suspended in whole or in part, the commercial fish  
2 protection assessment <sup>surcharge</sup> shall be reduced in proportion to the suspension unless the  
3 court directs otherwise.

4 (e) If any deposit is made for an offense to which this section <sup>✓</sup> applies, the person  
5 making the deposit shall also deposit a sufficient amount to include the commercial  
6 fish protection assessment <sup>surcharge</sup> required under this section. If the deposit is forfeited, the  
7 amount of the commercial fish protection assessment <sup>surcharge</sup> shall be transmitted to the  
8 state treasurer under par. (f). If the deposit is returned, the commercial fish  
9 protection assessment <sup>surcharge</sup> shall also be returned.

10 (f) The clerk of court shall collect and transmit to the county treasurer the  
11 commercial fish protection assessment <sup>surcharge</sup> and other amounts required under s. 59.40  
12 (2) (m). The county treasurer shall then make payment to the state treasurer as  
13 provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit the amount of the  
14 commercial fish protection assessment <sup>surcharge</sup> in the conservation fund.

15 (2) USE OF COMMERCIAL FISH PROTECTION ASSESSMENT FUNDS. All moneys collected  
16 from commercial fish protection assessments <sup>surcharges</sup> shall be credited to the appropriation  
17 under s. 20.370 (4) (kr).

18 SECTION 60. 29.987 (1) (a) of the statutes is amended to read:

19 29.987 (1) (a) If a court imposes a fine or forfeiture for a violation of a provision  
20 of this chapter or an order issued under this chapter, other than for a violation  
21 specified under s. 29.99 (1) (a), <sup>under ch. 814</sup> the court shall impose a natural resources assessment  
22 <sup>surcharge</sup> equal to <sup>75 percent</sup> 75% of the amount of the fine or forfeiture.

23 SECTION 61. 29.99 of the statutes is created to read:

24 29.99 Great Lakes resource assessment. (1) LEVY OF GREAT LAKES  
25 RESOURCE ASSESSMENT. <sup>surcharges</sup> (a) If a court imposes a fine or forfeiture for a violation of a

1 s. 29.503 involving Great Lakes fish or for a violation of s. 29.514 or 29.519, the court  
 2 shall impose a Great Lakes resource assessment <sup>assessment surcharge</sup> equal to 75 percent of the amount  
 3 of the fine or forfeiture.

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

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

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

17 (2) USE OF GREAT LAKES RESOURCE ASSESSMENT FUNDS. All moneys collected from  
 18 Great Lakes resource assessments <sup>assessments surcharges</sup> shall be credited to the appropriation under s.  
 19 20.370 (4) (kr).

20 SECTION 62. 29.991 of the statutes is created to read:

21 **29.991 Fishing net removal assessment.** (1) LEVY OF FISHING NET REMOVAL  
 22 ASSESSMENT. <sup>assessment surcharges</sup> (a) If a court imposes a forfeiture under s. 29.931 (2) (am) for failure to  
 23 reimburse the department for costs associated with a seizure under s. 29.931 (2) (a),  
 24 the court shall impose a fishing net removal <sup>assessment surcharge in an amount</sup> equal to 75 percent of the  
 25 amount of the forfeiture.

*the sum of those costs plus*

1 (b) If the forfeiture is suspended in whole or in part, the fishing net removal  
2 ~~assessment~~ <sup>surcharge</sup> shall be reduced in proportion to the suspension.

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

7 (2) DEPOSIT OF FISHING NET REMOVAL ASSESSMENT <sup>surcharge</sup> FUNDS. All moneys collected  
8 from fishing net removal ~~assessments~~ <sup>surcharges</sup> shall be deposited in the conservation fund.

9 **SECTION 63.** 30.51 (2) (c) 2. of the statutes is amended to read:

10 30.51 (2) (c) 2. A federally documented vessel which is a commercial fishing  
11 boat licensed operated under a license issued under s. 29.519.

12 **SECTION 64.** 59.25 (3) (f) 2. of the statutes ~~as affected by 2003 Wisconsin Act~~  
13 ~~33~~ is amended to read:

14 59.25 (3) (f) 2. For all court imposed fines and forfeitures required by law to be  
15 deposited in the state treasury, the amounts required by s. 757.05 for the penalty  
16 assessment surcharge, the amounts required by s. 165.755 for the crime laboratories  
17 and drug law enforcement assessment, the amounts required by s. 167.31 (5) for the  
18 weapons assessment, the amounts required by s. 973.045 for the crime victim and  
19 witness assistance surcharge, the amounts required by s. 938.34 (8d) for the  
20 delinquency victim and witness assistance surcharge, the amounts required by s.  
21 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by  
22 s. 961.41 (5) for the drug abuse program improvement surcharge, the amounts  
23 required by s. 100.261 for the consumer protection assessment, the amounts  
24 authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the domestic abuse  
25 assessment, the amounts required by s. 253.06 (4) (c) for the enforcement assessment

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 under s. 29.984 for the commercial fish  
9 protection assessment, the amounts required by ss. 29.987 and 169.46 (1) for the  
10 natural resources assessment surcharge, the amounts required by s. 29.985 for the  
11 fishing shelter removal assessment, the amounts required under s. 29.99 for the  
12 Great Lakes resource assessment, the amounts required under s. 29.991 for the  
13 fishing net removal assessment, the amounts required by s. 350.115 for the  
14 snowmobile registration restitution payment, and the amounts required by ss.  
15 29.989 and 169.46 (2) for natural resources restitution payments, transmit to the  
16 secretary of administration a statement of all moneys required by law to be paid on  
17 the actions entered during the preceding month on or before the first day of the next  
18 succeeding month, certified by the county treasurer's personal signature affixed or  
19 attached thereto, and at the same time pay to the secretary of administration the  
20 amount thereof.

21 **SECTION 65.** 59.40 (2) (m) of the statutes, as affected by 2003 Wisconsin Act 33,  
22 is amended to read:

23 59.40 (2) (m) Pay monthly to the secretary of administration state treasurer  
24 for the use of the state the state's percentage of the fees required to be paid on each  
25 civil action, criminal action, and special proceeding filed during the preceding month



1 and pay monthly to the ~~secretary of administration~~ state treasurer for the use of the  
2 state the percentage of court imposed fines and forfeitures required by law to be  
3 deposited in the state treasury, the amounts required by s. 757.05 for the penalty  
4 assessment surcharge, the amounts required by s. 165.755 for the crime laboratories  
5 and drug law enforcement assessment, the amounts required by s. 167.31 (5) for the  
6 weapons assessment, the amounts required by s. 973.045 for the crime victim and  
7 witness assistance surcharge, the amounts required by s. 938.34 (8d) for the  
8 delinquency victim and witness assistance surcharge, the amounts required by s.  
9 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by  
10 s. 961.41 (5) for the drug abuse program improvement surcharge, the amounts  
11 required by s. 100.261 for the consumer protection assessment, the amounts  
12 authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 for the domestic abuse  
13 assessment surcharge, the amounts required by s. 253.06 (4) (c) for the enforcement  
14 assessment under the supplemental food program for women, infants, and children,  
15 the amounts required by s. 349.04 for the truck driver education assessment, the  
16 amounts required by ss. 346.177, 346.495, and 346.65 (4r) for the railroad crossing  
17 improvement assessment, the amounts required by s. 346.655 for the driver  
18 improvement surcharge, the amounts required by s. 102.85 (4) for the uninsured  
19 employer assessment, the amounts required by s. 299.93 for the environmental  
20 assessment, the amounts required under s. 29.983 for the wild animal protection  
21 assessment, the amounts required under s. 29.984 for the commercial fish protection  
22 assessment, the amounts required under ss. 29.987 (1) (d) and 169.46 (1) (d) for the  
23 natural resources assessment surcharge, the amounts required by s. 29.985 for the  
24 fishing shelter removal assessment, the amounts required under s. 29.99 for the  
25 Great Lakes resource assessment, the amounts required under s. 29.991 for the

1 ~~fishing net removal assessment, the amounts required by s. 350.115 for the~~  
2 ~~snowmobile registration restitution payment, and the amounts required under ss.~~  
3 ~~29.989 (1) (d) and 169.46 (2) (d) for the natural resources restitution payments. The~~  
4 ~~payments shall be made by the 15th day of the month following receipt thereof.~~

Insert  
26-4 →

5 **SECTION 66. Effective date.**

6 (1) This act takes effect on July 1, ~~2004~~<sup>2005</sup>, or on the day after publication,  
7 whichever is later.

8 (END)

D-Note

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0707/P1ins.  
RNK:.....

INSERT 9-9

no # 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 or inventory under this subsection as having purchased, sold, possessed, or obtained fish

INSERT 9-10

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 or inventory 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.

INSERT 10-4

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

INSERT 10-11

SECTION 2, 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).

INSERT 11-17

SECTION 3, 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. ~~(1)~~ (1m).

**History:** 1975 c. 94 s. 91 (9); 1975 c. 199, 317; 1977 c. 29, 418; 1979 c. 32 s. 92 (1); 1979 c. 154, 221; 1983 a. 25; 1983 a. 27 s. 2202 (38); 1985 a. 29; 1985 a. 332 s. 251 (1), (3); 1991 a. 39; 1993 a. 112; 1997 a. 27, 189, 191, 237; 1997 a. 248 ss. 461 to 475; Stats. 1997 s. 29.519; 1999 a. 32.

**SECTION 4.** 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. ~~(1)~~ (1m) is fishing by trawl for other species of fish.

**History:** 1975 c. 94 s. 91 (9); 1975 c. 199, 317; 1977 c. 29, 418; 1979 c. 32 s. 92 (1); 1979 c. 154, 221; 1983 a. 25; 1983 a. 27 s. 2202 (38); 1985 a. 29; 1985 a. 332 s. 251 (1), (3); 1991 a. 39; 1993 a. 112; 1997 a. 27, 189, 191, 237; 1997 a. 248 ss. 461 to 475; Stats. 1997 s. 29.519; 1999 a. 32.

**INSERT 13-16**

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.

INSERT 13-17

~~SECTION 5.~~ 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.

INSERT 19-14

~~SECTION 6.~~ 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.

**History:** 1975 c. 365 ss. 45, 50; 1979 c. 34, 150, 175, 190, 355; 1981 c. 20, 236, 243, 391; 1983 a. 27; 1983 a. 80 s. 9; 1983 a. 114 s. 9; 1983 a. 192, 209, 419, 520, 538; 1985 a. 29, 36, 270, 271, 272, 289, 332; 1987 a. 379; 1989 a. 190, 336; 1991 a. 39, 269; 1993 a. 137; 1995 a. 59, 79; 1997 a. 1, 27; 1997 a. 248 ss. 714 to 722; Stats. 1997 s. 29.971; 1997 a. 283 ss. 20 to 23; 1999 a. 9, 32; 2001 a. 56, 108, 109; 2003 a. 139, 249.

INSERT 20-15

(bg) For a fine imposed under s. 29.971 (1) (b), the amount of the commercial fish protection surcharge shall be an amount equal to 3 times the average wholesale

value of the fish on the date of 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 the date of the violation.

\*  
\*  
\*\*\*NOTE: I am not sure that this provision, as I have drafted it, achieves your intent. The surcharge under this provision applies if a person is fined and the value of the fish exceeds \$300 but does not exceed \$1,000. What happens if the fish is valued in excess of \$1,000? Under current law (see s. 29.971 (1)(c)), if the value of certain fish exceeds \$1,000, then the violator is guilty of a felony. But the surcharge only attaches under this draft if a fine or forfeiture is imposed.

Also, the method of determining the wholesale value of fish under this provision is different than the method used elsewhere in the statutes. See, for example, s. 29.971 (1) (d), stats.

**INSERT 26-4**

~~SECTION 7~~ 814.75 (1) of the statutes is renumbered 814.75 (1m).

~~SECTION 8~~ 814.75 (1g) of the statutes is created to read:

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

~~SECTION 9~~ 814.75 (12n) of the statutes is created to read:

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

~~SECTION 10~~ 814.75 (13m) of the statutes is created to read:

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

~~SECTION 11~~ 814.76 (1) of the statutes is renumbered 814.76 (1m).

~~SECTION 12~~ 814.76 (1g) of the statutes is created to read:

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

~~SECTION 13~~ 814.76 (10m) of the statutes is created to read:

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

~~SECTION 14~~ 814.77 (1) of the statutes is renumbered 814.77 (1m).

~~SECTION 15~~ 814.77 (1g) of the statutes is created to read:

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

~~#~~ ✓  
**SECTION 16.** 814.77 (5m) of the statutes is created to read:

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

~~#~~ ✓  
**SECTION 17.** 814.77 (6m) of the statutes is created to read:

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

~~#~~ ✓  
**SECTION 18. 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 first day of the 13th month beginning after the effective date of this subsection [revisor inserts date], or the date on which permanent rules take effect, whichever is sooner. 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. ✓

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

LRB-0707/P1dn

RNK: *[Signature]*

*Date*

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.

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 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.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.state.wi.us

# Also, s. 973.05 (2m), stats., specifies ~~that~~ 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?



**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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0207

**Kite, Robin**

**From:** Hansen, Thomas R  
**Sent:** Monday, January 24, 2005 11:44 AM  
**To:** Nowlan, Andrew  
**Cc:** Flaherty, Peter D.; Kite, Robin  
**Subject:** Review of "redraft of LRB 2003-3653/P1.

Per Andrew -  
 - redraft as P/2

**Andrew:** Thank you very much for the opportunity to review the "redraft of LRB 2003-3653/P1. Overall, the drafter has done an excellent job with this document and putting the desires of the Commercial Fish Rewrite Task Force into statutory language. I do have some suggestions for some relatively minor changes, which the drafter had already identified as concerns. These are as follows:

**Suggested Changes**

1. Cover memo of Robin Kite - she suggested that it might be a good idea to allow supporting emergency rules to be in place longer than one year. **We agree that Section 80 of the draft should allow supporting emergency rules to run longer than 1 year.** As the drafter pointed out, the new requirements of 2003 Wisconsin Act 118 add significant time to the rule making process which could easily result in more than one year to complete permanent rule making process. In the mean time, rules do need to be in place to guide both the department and the commercial fishers in effectively managing the Great Lakes fisheries resource. ✓


2. Drafter's note between lines 13 & 14, p. 22 of draft - The drafter caught an oversight in our recommendations (thanks). The intention was that the "Commercial fish protection surcharges" would apply to for convictions of both misdemeanor violations under draft s. 29.971(1)(b) and felony violations under draft s. 29.971(1)(c). Therefore, Section 64 on line 8, page 22 should be changed to read: **(bg) For a fine imposed under s.29.971 (1)(b) and (c), the amount of the commercial.....** ✓

3. Drafter's note between lines 13 & 14, p. 22 of draft - the drafter noted that *"the method (language) of determining the wholesale value of fish under this provision is different than the method used elsewhere in the statutes. See for example, s. 29.971(1)(d) stats."* As she noted the language is different between the two sections of the draft. We would recommend that the methods for determining the wholesale value of commercial fish should be consistent and identical between the sections of law. For both sections of the proposed statues {s. 29.971(1)(d) and s. 29.984 (1)(bg)}, the intention is for a Conservation Warden or the District Attorney's office to call any three Wisconsin wholesale fish dealers and obtain their wholesale price on or about the date of violation for the fish species in question, and then divide by 3 to get the average wholesale value, which will then be used to determine the applicable values. Possibly, the method should be defined by the language of s. 29.971(1)(d) and then referenced in s. 29.984(1)(bg). However, the drafter would like to fix this, the specific statutory language should read: **on or about the date of the violation.** If we go with the current language of obtaining wholesale price on the specific date of the violation, we run the risk of a successful challenge from a defense attorney if the violation occurs on a date with no wholesale transactions in Wisconsin, such as a holiday or Sunday. ✓

<<comfishP1dn (Drafter's comment 1-7-05).pdf>> <<comfishP1(Draft of 1-7-05).pdf>>

Again, "Thank You" for the opportunity to review the drafts and allowing the department's input into this important piece of legislation. My compliments to Robin Kite for her efforts and skills producing this excellent piece of work. As always, please feel free to call if I can be of further assistance.

**Tom**

 **Thomas R. Hansen**

Warden Supervisor

Department of Natural Resources

01/28/2005

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