

[5000]

State of Wisconsin
2005 - 2006 LEGISLATURE

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

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* 814.75 (1), 814.76 (1) and 814.77 (1); *to renumber and amend*
3 29.407 (2) (b), 29.503 (4) (d), 29.519 (1) and 29.971 (1) (d); *to amend* 29.407 (2)
4 (a), 29.503 (1) (b), 29.503 (1) (e), 29.503 (4) (title), 29.503 (4) (a), 29.503 (4) (b),
5 29.503 (5) (title), 29.503 (5) (a), 29.503 (6) (b) 2., 29.503 (6) (c), 29.503 (7), 29.519
6 (2) (d), 29.519 (2) (f), 29.519 (2) (fm), 29.519 (4) (a), 29.519 (4m) (a), 29.519 (4m)
7 (c) (intro.), 29.519 (5) (a), 29.519 (5) (b), 29.519 (5) (c), 29.519 (6) (intro.), 29.519
8 (6) (a), 29.519 (6) (b), 29.519 (6m), 29.539 (2), 29.539 (3), 29.563 (7) (a) 1., 29.563
9 (7) (b) 1., 29.563 (7) (c) 1., 29.924 (4), 29.971 (1) (b), 29.971 (1) (c), 29.971 (1) (e),
10 29.971 (5), 29.987 (1) (a) and 30.51 (2) (c) 2.; and *to create* 20.370 (4) (kr), 29.001
11 (41m), 29.407 (2) (b) 1., 29.503 (1) (cm), 29.503 (4) (d) 2., 29.503 (4) (d) 3., 29.503
12 (4) (e), 29.503 (5) (br), 29.503 (5) (c), 29.503 (5) (d), 29.503 (6) (am), 29.519 (1b),
13 29.519 (2) (e), 29.519 (5) (dm), 29.519 (5m), 29.519 (6) (c), 29.519 (6g), 29.539
14 (3m), 29.931 (2) (am), 29.971 (1) (d) 1. and 4., 29.972, 29.984, 29.99, 29.991,
15 814.75 (1g), 814.75 (12n), 814.75 (13m), 814.76 (1g), 814.76 (10m), 814.77 (1g),

1 814.77 (5m) and 814.77 (6m) of the statutes; **relating to:** licensing, vehicle
2 identification, and record-keeping requirements for wholesale fish dealers and
3 commercial fishers, inspections of wholesale fish dealer ^{and commercial fisher} records and premises,
4 commercial fishing boats, periods when a commercial fisher may fish on the
5 waters of Green Bay, the sale and purchase of eggs from certain trout and
6 salmon, commercial fishing approval fees, seizure of certain fishing devices,
7 establishing a commercial fish reporting system, imposing certain surcharges,
8 providing an exemption from emergency rule procedures, extending the time
9 limit for emergency rule procedures, making an appropriation, and providing
10 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:

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

12 20.370 (4) (kr) *Commercial fish protection and Great Lakes resource*
13 *surcharges.* All moneys received from commercial fish protection surcharges under
14 s. 29.984 and from Great Lakes resource surcharges under s. 29.99 for research
15 relating to Great Lakes fish.

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

17 29.001 (41m) "Great Lakes fish" means lake trout, siscowet, whitefish, chubs,
18 yellow perch, menominee, lake herring, smelt, alewife, and burbot.

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

1 29.407 (2) (a) No person may transport or cause to be transported, or deliver
2 or receive or offer to deliver or receive for transportation, any game fish taken from
3 outlying waters unless the person complies with all applicable requirements under
4 pars. (b) ~~to~~ and (d).

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

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

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

11 29.407 (2) (b) 1. In this paragraph, “fresh fish” means any fish that has not been
12 frozen or smoked.

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

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

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

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

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

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

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

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

11 29.503 (4) (title) TAGGING AND, LABELING, AND VEHICLE IDENTIFICATION
12 REQUIREMENTS.

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

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

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

21 29.503 (4) (b) *Special tagging requirements for lake trout.* No wholesale fish
22 dealer or producer of fish may sell, buy, barter, trade, possess, control or, transport,
23 or cause to be transported any lake trout unless the lake trout is ~~tagged with a valid,~~
24 ~~current commercial fish tag issued or authorized~~ identified in the form and manner
25 required by the department ~~or by a governmental agency of another state or country.~~

1 ~~If a licensed wholesale fish dealer gives the department at least 12 hours' notice of~~
2 ~~the date, time and location of arrival at the state line of lawfully possessed, untagged~~
3 ~~lake trout which are intended for importation into this state by the licensed~~
4 ~~wholesale fish dealer, the department or its representatives shall meet the shipment~~
5 ~~of lake trout and attach a "foreign lake trout tag" to each fish or seal the shipment~~
6 ~~with a department seal which may not be removed prior to delivery to the licensed~~
7 ~~wholesale fish dealer. The department or its representative shall tag the lake trout~~
8 ~~in a timely and orderly manner, and so as not to create any damage or spoilage to the~~
9 ~~fish. The tag shall be attached through the gills and mouth of whole lake trout, or~~
10 ~~in a manner which results in 2 complete fillets joined by the tag. For tagging of other~~
11 ~~forms of lake trout, the department shall promulgate rules to determine the manner~~
12 ~~in which the tag shall be attached to or accompany the trout, and the conditions, if~~
13 ~~any, under which the tag may be separated from the trout.~~

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

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

1 fish being shipped; and the signature of the person completing the invoice, the kinds
2 of fish contained may be omitted from the package or box labels. Producers shall only
3 be required to label or provide invoices for packages or boxes of fish being transported
4 by vehicle or boat for purposes of sale. This paragraph does not apply to a producer
5 of fish on the Mississippi River accompanied by a bill of lading or an invoice that
6 contains the name, address, and license number of the seller and of the buyer.

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

8 29.503 (4) (d) 2. The bill of lading or invoice required under subd. 1. shall
9 contain the name, address, and license number of the seller and the buyer of the fish
10 covered by the bill of lading or invoice and shall specify the point of origin of the fish,
11 the point of destination of the fish, the species of fish, the weight of each species of
12 fish, and the number of containers, packages, or boxes covered by the bill of lading
13 or invoice. The operator of the conveyance transporting the fish shall immediately
14 produce the bill of lading or invoice for inspection upon the request of a warden.

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

16 29.503 (4) (d) 3. This paragraph does not apply to a producer of fish if the
17 producer is transporting fish from the producer's boat or landing to a processing
18 facility in this state.

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

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

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

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

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

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

7 29.503 (5) (a) *Records*. Each wholesale fish dealer shall keep legible, written
8 records in the English language of all fish purchased, sold, possessed, or obtained in
9 his or her capacity as a wholesale fish dealer, in the manner required and on forms
10 provided by the department by any means including by trade or barter and shall keep
11 records of all fish disposed of in his or her capacity as a wholesale fish dealer for any
12 reason, including as a result of spoilage or by donation. The record shall include the
13 name, address, and fish dealer license number of the purchaser; the name, address,
14 and wholesale fish dealer or commercial fishing license number of the person from
15 whom the fish were purchased or obtained; the date of the transaction; the kinds of
16 fish, the pounds or kilograms of each kind and the description of the fish purchased
17 or obtained; and the signature of the person completing the record. If the record
18 relates to a retail sale by the wholesale fish dealer, the record shall include only the
19 date of the transaction and the kind, weight, and condition of the fish sold.

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

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

22 29.503 (5) (br) *Inventory*. Each wholesale fish dealer shall prepare an annual
23 inventory of Great Lakes fish and all species of sturgeon owned by the wholesale fish
24 dealer or in the dealer's possession or control at the time that the inventory is
25 prepared, including such fish maintained in cold storage facilities. The inventory

1 shall be furnished to the department within 15 days after the inventory is completed.
2 The inventory shall be recorded on a form available from the department and shall
3 include the weight of the fish in pounds or kilograms, the species of the fish, the
4 condition of the fish, and the address of the location of the fish.

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

6 29.503 (5) (c) *Requirements.* No wholesale fish dealer, or employee of a
7 wholesale fish dealer, may possess, control, store, transport, or cause to be
8 transported any fish for which there is no record or for which there is no inventory
9 as required under this subsection.

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

11 29.503 (5) (d) *Record retention and confidentiality.* 1. Each wholesale fish
12 dealer shall retain all records and inventories required under this subsection for a
13 period of at least 5 years from the date on which the record or inventory was created.
14 Each wholesale fish dealer shall notify the department annually, on forms available
15 from the department, of the location of the dealer's records and inventories.

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

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

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

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

6 29.503 (6) (am) *Records inspection.* 1. Upon the request of the department, a
7 wholesale fish dealer licensed in this state shall produce all records relating to the
8 purchase, acquisition, sale, trade, barter, storage, or disposition of fish that are kept
9 at a residence, dwelling, or location other than the wholesale fish dealer's place of
10 business, within 24 hours of such request, for inspection or copying. If the wholesale
11 fish dealer's records are located outside of this state, the wholesale fish dealer may
12 mail the records to the department for inspection or copying. The records shall be
13 mailed within 24 hours of receipt of the department's request.

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

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

18 29.503 (6) (b) 2. To inspect fish stored or in the possession of a wholesale fish
19 dealer, inspect or copy records or reports of a wholesale fish dealer, and to inspect
20 buildings, structures, vehicles, boats, equipment and materials related to a
21 wholesale fish dealer's business.

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

23 29.503 (6) (c) *Failure to produce records or to permit inspection.* No wholesale
24 fish dealer, operator of a vehicle or boat for a wholesale fish dealer or employee or
25 person acting on behalf of a wholesale fish dealer may prohibit entry or prohibit an

1 inspection to be conducted as authorized under this subsection, or refuse to produce
2 records as required under this subsection, unless a court restrains or enjoins the
3 entry ~~of~~, inspection, or production.

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

5 29.503 (7) EXEMPTION. This section does not apply to fish produced in a state
6 or municipal fish hatchery or to farm-raised fish that are bought, bartered, sold,
7 obtained, processed, solicited, or transported by a person who operates a fish farm
8 registered under s. 95.60 (3m) or by that person's employees.

9 **SECTION 27.** 29.519 (1) of the statutes is renumbered 29.519 (1m), and 29.519
10 (1m) (c), as renumbered, is amended to read:

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

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

18 29.519 (1b) In this section, "record" has the meaning given in s. 29.503 (1) (cm).

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

20 29.519 (2) (d) *Transfer of license.* ~~The department may, upon application,~~
21 ~~permit the transfer of a license to any similar boat during the time a licensed boat~~
22 ~~is disabled or undergoing repairs or upon the sale of a licensed boat.~~ The department
23 shall promulgate rules governing the transfer of commercial fishing licenses
24 between individuals equally qualified to hold the licenses and to members of a
25 licensee's immediate family provided the rules assure the wise use and conservation

1 of the fish resources being harvested under the license. The rules shall relate only
2 to those waters in which the number of licenses is limited. The commercial fishing
3 boards, under sub. (7), shall approve or deny transfers of commercial fishing licenses
4 in accordance with the rules promulgated under this section. For purposes of s.
5 29.024 (2g) and (2r), a transfer of a license under this section shall be considered an
6 issuance of a license to the transferee.

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

8 29.519 (2) (e) *Transfer of replacement boats.* The department may, upon
9 application, allow the holder of a commercial fishing license to replace a boat listed
10 on that license with a different boat.

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

12 29.519 (2) (f) *Licensed Commercial fishing boats.* Any licensed boat used by
13 a resident licensee shall be from a port of record in this state, its hailing port shall
14 be a port in this state, and it shall be a registered or documented boat of this state.
15 Any licensed boat used by a nonresident licensee shall be a registered or documented
16 boat of the state of residency.

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

18 29.519 (2) (fm) *Attending boats.* Each licensed boat in excess of 25 feet in
19 overall length used by a commercial fisher may be accompanied by and work with
20 one attending boat without an additional license fee for the attending boat. Any
21 attending boat that is a motorboat under s. 30.50 (2) shall be ~~a~~ registered boat under
22 s. 30.51. An attending boat shall bear the name, if any, of the licensed boat listed on
23 the commercial fishing license issued under sub. (1m) and may be used only for
24 attending the licensed that boat.

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

1 29.519 (4) (a) Any commercial fishing licensee may use licensed crew members
2 when fishing with or without a boat. The number of crew members engaged under
3 a single license may not exceed 4 when fishing with nets under the ice. The
4 department, upon proper application for crew licenses, may issue with each
5 commercial fishing license no more than 4 crew licenses for the specific purpose of
6 fishing with nets under the ice and the number indicated on the application for the
7 purpose of fishing in open water. Each crew license shall bear the number of the
8 commercial fishing license, the purpose for which intended, the year for which issued
9 and the name of the crew member to whom the crew license is issued. The crew
10 license permits a person to engage in commercial fishing only as a member of a crew
11 of a commercial fisher licensed under sub. ~~(1)~~ (1m).

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

13 29.519 (4m) (a) In this subsection, “incidental catch” means species of fish
14 inadvertently caught while a commercial fisher licensed under sub. ~~(1)~~ (1m) is
15 fishing by trawl for other species of fish.

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

17 29.519 (4m) (c) (intro.) A commercial fisher licensed under sub. ~~(1)~~ (1m) may
18 fish by trawl for the total allowable commercial harvest of smelt, as set by rule by the
19 department, on the waters of Green Bay at any time during ~~the period beginning one~~
20 ~~hour after sunset and ending 3 hours after sunrise~~ nighttime if all of the following
21 apply:

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

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

1 29.519 (5) (a) *Records and reports requirements.* Each commercial fishing
2 licensee fisher shall maintain and submit records and ~~provide reports as to the~~
3 department in the form and manner required by the department ~~by rule.~~

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

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

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

15 29.519 (5) (c) *Catch Fish disposition records.* The licensee commercial fisher
16 shall keep a complete, legible and accurate record of the disposition of landed catch,
17 in the form and manner required ~~and on forms~~ provided by the department. The
18 record shall include the complete name, address and commercial fishing license
19 number of the licensee; for each wholesale sale, the complete name, address and
20 wholesale fish dealer license number, if any, of the buyer and the kinds of fish sold,
21 the number of pounds of each kind and the description of the fish sold and the date
22 of the ~~transaction~~; ^{sale} for direct retail sales, the kinds of fish sold ^{and} the total pounds
23 of each kind; ^{and the date of the sale} and the signature of the licensee. In this paragraph, "landed catch"
24 means those fish or fish parts caught in commercial fishing operations and brought
25 to shore to utilize or to sell or otherwise utilize dispose of.

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

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

3 29.519 (5) (dm) *Record retention and confidentiality.* 1. Each commercial
4 fisher shall maintain and retain all records required under this subsection for a
5 period of at least 5 years from the date on which the record was created. Each
6 commercial fisher shall notify the department annually, on forms available from the
7 department, of the location of the commercial fisher's records.

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

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

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

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

1 29.519 (5m) INVENTORY. Each commercial fishing licensee shall prepare an
2 annual inventory of Great Lakes fish and all species of sturgeon owned by the
3 licensee or in the licensee's possession or control at the time that the inventory is
4 prepared, including such fish maintained in cold storage facilities. The inventory
5 shall be furnished to the department within 15 days after the inventory is completed.
6 The inventory shall be recorded on a form available from the department and shall
7 include the weight of the fish in pounds or kilograms, the species of the fish, the
8 condition of the fish, and the address of the location of the fish.

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

10 29.519 (6) INSPECTION. (intro.) For purposes of enforcement of this section,
11 wardens or department employees duly authorized and designated by the secretary,
12 upon presenting appropriate credentials to the licensee commercial fisher, crew
13 member, or agent in charge, are authorized:

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

15 29.519 (6) (a) To enter any building or structure, excluding a dwelling place,
16 in which records, nets, or fish are stored, or held, or in which fish are processed, or
17 packed or held, or to enter any boat or vehicle being used to transport nets or fish
18 when the owner or agent in charge is present or upon 8 hours' notice at other times.

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

20 29.519 (6) (b) To inspect buildings, structures, boats or vehicles, to inspect all
21 pertinent equipment including nets used or stored in the places to be inspected, to
22 inspect or copy all records of commercial fishing activity, of fish storage, and of fish
23 disposition, and to inspect any fish stored, processed, packed or held in the places to
24 be inspected.

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

1 29.519 (6) (c) To direct a commercial fisher, a crew member, or an agent in
2 charge to empty any fish box that is larger than a standard fish box, as defined by
3 the department by rule. If so directed, the commercial fisher, crew member, or agent
4 shall empty such fish box.

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

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

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

13 29.519 (6m) INTERFERENCE WITH INSPECTIONS. No licensee commercial fisher,
14 licensed crew member, operator of a vehicle or boat for the licensee commercial fisher,
15 or an employee acting on behalf of the licensee commercial fisher may prohibit entry
16 or, prohibit an inspection to be conducted, fail or refuse to produce any record, or fail
17 or refuse to immediately empty a fish box or container as authorized provided under
18 sub. (6) unless a court restrains or enjoins the entry or inspection. The department
19 may not conduct an inspection or examine a person's records under sub. (6) if such
20 action has been enjoined by court order.

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

22 29.539 (2) No Except as provided in subs. (3) and (3m), no fish taken by hook
23 and line from outlying waters, except rough fish, may be sold, bartered or traded in
24 any manner.

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

1 29.539 (3) The eggs from trout and salmon that are not farm-raised fish and
2 that are lawfully taken and possessed under this chapter are exempted from this
3 section if removed from the fish. ~~The whole fish shall be taken to the buyer of the~~
4 ~~eggs and the eggs removed in the presence of the buyer. The fish carcass shall be~~
5 ~~legally disposed of as provided under sub. (3m).~~

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

7 29.539 (3m) The eggs from trout and salmon that are not farm-raised fish may
8 not be sold or purchased unless the eggs are first removed from the whole fish in the
9 presence of the buyer. The fish carcass shall be legally disposed of. Eggs that are
10 removed in accordance with this subsection may subsequently be sold or purchased
11 without the fish subject to any licensing requirement under s. 29.503.

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

13 29.563 (7) (a) 1. Outlying waters: \$899.25 for the first licensed boat and
14 \$899.25 for each additional licensed boat that is listed on a license issued under s.
15 29.519 (1m).

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

17 29.563 (7) (b) 1. Outlying waters: \$6,499.25 for the first licensed boat and
18 \$6,499.25 for each additional licensed boat that is listed on a license issued under s.
19 29.519 (1m).

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

21 29.563 (7) (c) 1. Outlying waters license transfers under s. 29.519 (2) (d): \$25
22 \$50.

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

24 29.924 (4) ACCESS TO STORAGE PLACES. The owner or occupant of any
25 cold-storage warehouse or building used for the storage or retention of wild animals,

1 or their carcasses, that are subject to regulation under this chapter shall permit the
2 department and its wardens to enter and examine the premises subject to s. 66.0119.
3 The owner or occupant, or the agent or employee of the owner or occupant, shall
4 deliver to the officer any such wild animal or carcass, in his or her possession during
5 the closed season the warehouse or building, that the officer has reasonable cause
6 to believe is possessed or was taken in violation of the law, whether taken within or
7 without the state. The owner or occupant, or the agent or employee of the owner or
8 occupant, shall permit the department to examine and copy any record pertaining
9 to the storage or retention of any wild animal either when the owner, occupant, agent,
10 or employee is present or upon 24 hours' notice.

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

12 29.931 (2) (am) If the department or its wardens seize any net or similar fishing
13 device under par. (a), the owner shall reimburse the department for all costs
14 associated with the seizure within 20 days after the department gives written notice
15 to the owner of the owner's obligation to reimburse the department. The notice shall
16 include the amount of the costs required to be reimbursed by the owner. If the owner
17 does not reimburse the department as required under this paragraph, the owner
18 shall forfeit not more than \$1,000 in addition to the costs of reimbursement. All
19 reimbursement costs collected under this paragraph shall be credited to the
20 appropriation under s. 20.370 (3) (mi).

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

22 29.971 (1) (b) For having taking, transporting, acquiring, selling, purchasing,
23 or possessing, or attempting to take, acquire, transport, sell, purchase, or possess,
24 any fish in his or her possession, or failing to report any fish, in violation of this
25 chapter and the that has a value of the fish under par. (d) ~~exceeds~~ exceeding \$300 but

1 does not exceed ~~exceeding~~ \$1,000, by a fine of not ~~less than \$1,000 nor more than~~
2 \$5,000 or imprisonment for not more than 30 days or both.

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

4 29.971 (1) (c) A person having taking, transporting, acquiring, selling,
5 purchasing, or possessing, or attempting to take, acquire, transport, sell, purchase,
6 or possess, any fish in his or her possession, or failing to report any fish, in violation
7 of this chapter is guilty of a Class I felony if the value of the fish under par. (d) exceeds
8 \$1,000.

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

11 29.971 (1) (d) 2. Salmon, trout, and noncommercial game fish shall be valued
12 for the purposes of pars. (b) and (c) on a ~~per fish~~ per-fish basis according to the dollar
13 amounts specified under s. 29.977 (1) (a) and (i) to (L).

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

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

22 29.971 (1) (d) 1. In this paragraph, “average wholesale value” means the
23 average purchase price paid by wholesale fish dealers on the date of a violation of this
24 chapter as determined by the department after obtaining price information from 3
25 wholesale fish dealers in this state.

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

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

5 29.971 (1) (e) ~~Any person holding an approval issued under this chapter, upon~~
6 ~~his or her 2nd conviction within a 3-year period for violations of this chapter relating~~
7 ~~to possessing illegal fish, fishing with illegal gear, fishing in closed areas or refuges,~~
8 ~~fishing during a closed season, violation of quota fisheries or false reporting shall~~
9 ~~have all of his or her fishing and fish dealing licenses revoked and no fishing or fish~~
10 ~~dealing license may be issued to the person for at least one year after the date of~~
11 ~~conviction. During~~ In addition to any other penalty under this section, during the
12 ~~period of revocation for 2 convictions under pars. (b) or (c) or a combination of 2~~
13 ~~convictions under pars. (b) and (c)~~ time that a person's commercial fishing license is
14 revoked under sub. (12), the person may not engage in fishing on the water or ice in
15 any manner, operate or assist in the operation of fishing gear or engage in the sale
16 or transportation of fish. Any person holding a license under s. 29.519 (1) (1m) who
17 has that license revoked under ~~this paragraph,~~ sub. (12) may apply for that license
18 for that part of the license year following the period of revocation ~~which is at least~~
19 ~~one year after the date of conviction~~ and the department shall issue that license if
20 all licensing criteria are met. The revoked license may not be issued to another
21 person during the period of revocation.

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

23 29.971 (5) For violation of s. 29.539, except s. 29.539 (3m), by a fine of not less
24 than \$1,000 nor more than \$2,000 or imprisonment for not more than 6 months or
25 both. In addition, the court shall order the revocation of all hunting and sport fishing

1 approvals issued to the person under this chapter and shall prohibit the issuance of
2 any new hunting or sport fishing approvals under this chapter to the person for 5
3 years.

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

5 **29.972 Commercial fish reporting system.** The department shall establish
6 and maintain a commercial fish reporting system under which the department shall
7 establish specific reporting or record-keeping requirements that apply to all of the
8 following:

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

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

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

16 **29.984 Commercial fish protection surcharges.** (1) LEVY OF COMMERCIAL
17 FISH PROTECTION SURCHARGES. (a) If a court imposes a fine or forfeiture under s. 29.971
18 for the unlawful killing, catching, taking, transporting, sale, or possession of Great
19 Lakes fish in violation of s. 29.503, or of fish in violation of s. 29.514 or 29.519, or for
20 failing to report any fish in violation of s. 29.503 or 29.519, the court may impose a
21 commercial fish protection surcharge that equals the amount specified for the fish
22 under par. (b) or (bg).

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

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

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

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

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

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

22 (f) The clerk of court shall collect and transmit to the county treasurer the
23 commercial fish protection surcharge and other amounts required under s. 59.40 (2)
24 (m). The county treasurer shall then make payment to the state treasurer as

1 provided in s. 59.25 (3) (f) 2. The state treasurer shall deposit the amount of the
2 commercial fish protection surcharge in the conservation fund.

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

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

7 29.987 (1) (a) If a court imposes a fine or forfeiture for a violation of a provision
8 of this chapter or an order issued under this chapter, other than for a violation
9 specified under s. 29.99 (1) (a), the court shall impose a natural resources surcharge
10 under ch. 814 equal to ~~75%~~ 75 percent of the amount of the fine or forfeiture.

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

12 **29.99 Great Lakes resource surcharges.** (1) LEVY OF GREAT LAKES
13 RESOURCE SURCHARGES. (a) If a court imposes a fine or forfeiture for a violation of s.
14 29.503 involving Great Lakes fish or for a violation of s. 29.514 or 29.519, the court
15 shall impose a Great Lakes resource surcharge equal to 75 percent of the amount of
16 the fine or forfeiture.

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

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

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

6 (2) USE OF GREAT LAKES RESOURCE SURCHARGE FUNDS. All moneys collected from
7 Great Lakes resource surcharges shall be credited to the appropriation under s.
8 20.370 (4) (kr).

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

10 **29.991 Fishing net removal surcharges.** (1) LEVY OF FISHING NET REMOVAL
11 SURCHARGES. (a) If a court imposes a forfeiture under s. 29.931 (2) (am) for failure
12 to reimburse the department for costs associated with a seizure under s. 29.931 (2)
13 (a), the court shall impose a fishing net removal surcharge in an amount equal to the
14 sum of those costs plus 75 percent of the amount of the forfeiture.

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

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

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

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

24 30.51 (2) (c) 2. A federally documented vessel which is a commercial fishing
25 boat licensed operated under a license issued under s. 29.519.

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

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

3 814.75 (1g) The commercial fish protection surcharge under s. 29.984.

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

5 814.75 (12n) The fishing net removal surcharge under s. 29.991.

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

7 814.75 (13m) The Great Lakes resource surcharge under s. 29.99.

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

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

10 814.76 (1g) The commercial fish protection surcharge under s. 29.984.

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

12 814.76 (10m) The Great Lakes resource surcharge under s. 29.99.

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

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

15 814.77 (1g) The commercial fish protection surcharge under s. 29.984.

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

17 814.77 (5m) The fishing net removal surcharge under s. 29.991.

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

19 814.77 (6m) The Great Lakes resource surcharge under s. 29.99.

20 **SECTION 80. Nonstatutory provisions.**

21 (1) The department of natural resources may use the procedure under section
22 227.24 of the statutes to promulgate rules under this act. Notwithstanding section
23 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this
24 subsection shall remain in effect until the date on which permanent rules take effect.
25 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not

1 required to provide evidence that promulgating a rule under this subsection as an
2 emergency rule is necessary for the preservation of public peace, health, safety, or
3 welfare and is not required to provide a finding of emergency for a rule promulgated
4 under this subsection.

5 **SECTION 81. Effective date.**

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

8 (END)

Kite, Robin

From: Hansen, Thomas R
Sent: Friday, April 15, 2005 2:31 PM
To: Kite, Robin
Cc: Flaherty, Peter D.


Robin: Again, "THANK YOU" for the opportunity to review the draft of the Commercial Fish rewrite with you. Per our conversation, here are the two sections that still need to be added. As I explained, we would like to have the option of either directly inspecting and copying records at the business place of the wholesaler/commercial fisher or to request them to provide those records to us via a written request.

"Add" the following language on p 9, between line 21 -22 - Create s. 29.503(6)(b)3. Upon receipt of a written request, a wholesale fish dealer shall provide records kept at a wholesale fish dealer's place of business to the department for inspection and copying. The records shall be mailed within 24 hours of receipt of the department's request

"Add" the following language on p. 16, between line 2 - 3 - Create s. 29.519(6)(b)1. Upon receipt of a written request, a commercial fisher shall provide records kept at a commercial fisher's place of business to the department for inspection and copying. The records shall be mailed within 24 hours of receipt of the department's request.

Thanks

Tom

 **Thomas R. Hansen**

Warden Supervisor

Department of Natural Resources

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04/15/2005

Northrop, Lori

From: Nowlan, Andrew
Sent: Friday, June 24, 2005 1:41 PM
To: LRB.Legal
Subject: FW: LRB 05-0707/1

Please jacket this draft for the Assembly for Rep. Garey Bies. Thank you.

Andrew Nowlan
Research Assistant
Office of Rep. Garey Bies

From: Northrop, Lori
Sent: Tuesday, May 03, 2005 3:15 PM
To: Nowlan, Andrew
Subject: LRB 05-0707/1 attached as requested



05-0707/1

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