

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB842)

Received: 01/11/2006

Received By: **mglass**

Wanted: **Today**

Identical to LRB:

For: **Terry Moulton (608) 266-9172**

By/Representing: **Matt Seaholm**

This file may be shown to any legislator: **NO**

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - fish and game**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Moulton@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Scope of department of natural resources authority regarding seized or confiscated items

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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/?	mglass	<i>1/12 jld</i>	<i>[Signature]</i>				

FE Sent For:

<END>

Gibson-Glass, Mary

From: Seaholm, Matthew
Sent: Wednesday, December 14, 2005 4:42 PM
To: Gibson-Glass, Mary
Subject: FW: Suggested minor Amendment to AB 842.

Mary,

Today in the Assembly Natural Resources Committee Tom Van Haren of the DNR made the following suggestions for AB842. Could you take a look at these and if they make sense draft them up as an amendment to AB 842? Let me know if you have any questions.

Thanks,
 Matt Seaholm
 Office of Rep. Moulton
 6-9172

From: Van Haren, Thomas
Sent: Wednesday, December 14, 2005 4:04 PM
To: Moulton, Terry
Cc: Hebl, Gary
Subject: Suggested minor Amendment to AB 842.

Thanks again for taking the time to introduce AB 842 and providing us the opportunity to show our support for this bill at today's hearing.

In regards to the minor amendment I suggested at the hearing, I apologize for not sharing it with you earlier. While this new language is not essential to accomplish the 3 main provisions included in this bill, but it will be very helpful in clearing up what can be done with items we possess for violations of several statutes when these items are not needed, or no longer needed, for educational purposes.

Suggested Amendment to AB 842: (In the locations shown in **Section 5** below, insert: **“any of the laws for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13”** and stikeout **“this chapter or ch. 169”**) This amendment would then allow, or clarify that the DNR may sell seized or confiscated items for violations of the ss. 167.31 and 943.13 as well as Ch. 951, when these items are not needed for use by the department as authorized under the new s. 29.938(1) created in Section 8 of this bill.

The below proposed language was actually written by Mary Gibson Glass as part of 2005 AB 409 for this same section of the statute. It is more all inclusive and does not create the problem of what can be sold and what can not.

SECTION 5. 29.934 (1) (a) of the statutes is amended to read:
 29.934 (1) (a) All wild animals, carcasses ~~or~~, plants, vehicles, boats, or objects that are confiscated by the department for a violation of **any of the laws for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13** ~~this chapter or ch. 169~~ and all vehicles, boats or objects confiscated by the department for a violation of ~~this chapter or ch. 169~~ shall, if not destroyed as authorized by law, be sold at the highest price obtainable, except as provided in ss. 29.936 and 29.938,

by the department, or by an agent on commission under supervision of the department. The net proceeds of sales under this subsection, after deducting the expense of seizure and sale and any commissions and any amounts owing to holders of security interests under par. (c) or (d), shall be remitted to the department. The remittance shall be accompanied by a report of the sales, supported by vouchers for expenses and commissions, and shall be filed with the department.

Again, although not essential for this bill, for consistency on language used in other related sections of Chapter 29, it may be wise to use this same language in the following 2 section of Ch. 29. This language was also included in AB 409.

s.29.931 (1) of the statutes is amended to read:

29.931 (1) SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS. The department and its wardens shall seize and confiscate any wild animal, carcass or plant caught, killed, taken, had in possession or under control, sold or transported in violation of **any of the law for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13** ~~this chapter or ch. 169~~. The officer may, with or without warrant, open, enter and examine all buildings, camps, boats on inland or outlying waters, vehicles, valises, packages and other places where the officer has probable cause to believe that wild animals, carcasses or plants, taken or held ~~in violation of this chapter or ch. 169~~ **the commission of such violations**, are to be found.

s. 29.931 (2) (a) of the statutes is amended to read:

29.931 (2) (a) The department and its wardens shall seize and hold, subject to the order of the court for the county in which the alleged offense was committed, any vehicle, boat or object declared by this chapter to be a public nuisance, or which they have probable cause to believe is being used in violation of **any of the law for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13** ~~this chapter or ch. 169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the commission of a crime involving an animal normally found in the a wild in violation of s. 951.09, or is being used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47~~. If it is proven that the vehicle, boat or object is a public nuisance or that within 6 months previous to the seizure the vehicle, boat or object was used in violation of **any of the law for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13** ~~this chapter or ch. 169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the commission of a crime involving an animal normally found in the a wild in violation of s. 951.09, or is being used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47~~, it shall be confiscated if the court directs in its order for judgment.

Thanks Again and let me know if you have any questions.

 *Thomas Van Haren*

Conservation Warden & Natural Resources Policy Officer

Bureau of Law Enforcement

Wisconsin Department of Natural Resources

(☎) phone: (608) 266-3244

(☎) fax: (608) 266-3696

(✉) e-mail: Thomas.VanHaren@dnr.state.wi.us

conv. w/ Matt

explained ~~conv~~ should not X-ref
943.13 unless brought in parts
of AB 409, which has been
tacked in Assembly, giving
DNR authority to enforce S. 943.13
Matt will talk to Tom Van Haren

Gibson-Glass, Mary

From: Seaholm, Matthew
Sent: Monday, January 09, 2006 4:37 PM
To: Gibson-Glass, Mary
Subject: RE: Suggested minor Amendment to AB 842.

Sounds good. Thanks.

From: Gibson-Glass, Mary
Sent: Monday, January 09, 2006 4:37 PM
To: Seaholm, Matthew
Subject: RE: Suggested minor Amendment to AB 842.

I agree. I'll prepare the amendment as soon as possible.

Mary Gibson-Glass
Senior Legislative Attorney
Legislative Reference Bureau
608 267 3215

From: Seaholm, Matthew
Sent: Monday, January 09, 2006 4:36 PM
To: Gibson-Glass, Mary
Subject: FW: Suggested minor Amendment to AB 842.

Mary,

This is the reponse I got from Tom Van Haren. If this makes sense, I say we go ahead with the amendment without the reference to s. 943.13. Let me know what you think.

Thanks,
Matt

Matt Seaholm
Office of Rep. Moulton
6-9172

From: Van Haren, Thomas
Sent: Monday, January 09, 2006 4:33 PM
To: Seaholm, Matthew
Subject: RE: Suggested minor Amendment to AB 842.

Matt,

I will be away from the office most of the day on Wednesday in Senate Hearings and then out of town. I will also be out most of tomorrow to attend a public hearing in Wausau.

01/11/2006

I agree with Mary on the s. 943.13 issue as the bill which would have given wardens trespass authority has been tabled in the assembly at this time. Simply removing those references to s. 943.13 should solve that concern. The remaining language should still fix the concern we had about not being able to sell all seized or confiscated items for violations of laws we currently do have authority to enforce.

I should be in on Thursday, but must attend a public hearing in Fitchburg that evening.

 *Thomas Van Haren*

Conservation Warden & Natural Resources Policy Officer

Bureau of Law Enforcement

Wisconsin Department of Natural Resources

(☎) phone: (608) 266-3244

(☎) fax: (608) 266-3696

(✉) e-mail: Thomas.VanHaren@dnr.state.wi.us

From: Seaholm, Matthew [mailto:Matthew.Seaholm@legis.state.wi.us]
Sent: Monday, January 09, 2006 4:09 PM
To: Van Haren, Thomas
Subject: RE: Suggested minor Amendment to AB 842.

Tom,

Sorry about the delay in getting back to you on this amendment, it got lost over the holidays between our office and Mary Gibson-Glass. I was talking with her about the amendments today and she is concerned that adding 943.13 to the language will create an ambiguity in the statutes because currently the enforcement authority doesn't exist. We would like to set up a time to have a conference call between you, Mary, and myself sometime on Wednesday if that works for you. Please let me know when you would be available and we will work with your schedule as best we can.

Thanks,

Matt

Matt Seaholm

Office of Rep. Terry Moulton

Wisconsin's 68th Assembly District

(608) 266-9172

From: Van Haren, Thomas
Sent: Wednesday, December 14, 2005 4:04 PM
To: Moulton, Terry
Cc: Hebl, Gary
Subject: Suggested minor Amendment to AB 842.

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29.934 (1) (a) All wild animals, carcasses ~~or, plants, vehicles, boats, or objects~~ that are confiscated by the department for a violation of **any of the laws for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13** ~~this chapter or ch. 169 and all vehicles, boats or objects confiscated by the department for a violation of this chapter or ch. 169~~ shall, if not destroyed as authorized by law, be sold at the highest price obtainable, except as provided in ss. 29.936 and 29.938, by the department, or by an agent on commission under supervision of the department. The net proceeds of sales under this subsection, after deducting the expense of seizure and sale and any commissions and any amounts owing to holders of security interests under par. (c) or (d), shall be remitted to the department. The remittance shall be accompanied by a report of the sales, supported by vouchers for expenses and commissions, and shall be filed with the department.

Again, although not essential for this bill, for consistency on language used in other related sections of Chapter 29, it may be wise to use this same language in the following 2 section of Ch. 29. This language was also included in AB 409.

s.29.931 (1) of the statutes is amended to read:

29.931 (1) SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS. The department and its wardens shall seize and confiscate any wild animal, carcass or plant caught, killed, taken, had in possession or under control, sold or transported in violation of **any of the law for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13** ~~this chapter or ch. 169~~. The officer may, with or without warrant, open, enter and examine all buildings, camps, boats on inland or outlying waters, vehicles, valises, packages and other places where the officer has probable cause to believe that wild animals, carcasses or plants, taken or held ~~in violation of this chapter or ch. 169~~ **the commission of such violations**, are to be found.

s. 29.931 (2) (a) of the statutes is amended to read:

29.931 (2) (a) The department and its wardens shall seize and hold, subject to the order of the court for the county in which the alleged offense was committed, any vehicle, boat or object declared by this chapter to be a public nuisance, or which they have probable cause to believe is

being used in violation of any of the law for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13 this chapter or ch. 169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the commission of a crime involving an animal normally found in the a wild in violation of s. 951.09, or is being used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47. If it is proven that the vehicle, boat or object is a public nuisance or that within 6 months previous to the seizure the vehicle, boat or object was used in violation of any of the law for which the department and its wardens have enforcement authority under s. 29.921, or s. 943.13 this chapter or ch. 169 or s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the commission of a crime involving an animal normally found in the a wild in violation of s. 951.09, or is being used in the commission of a crime relating to a submerged cultural resource in violation of s. 44.47, it shall be confiscated if the court directs in its order for judgment.

Thanks Again and let me know if you have any questions.

 *Thomas Van Haren*

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2058/1
MGG: A:...

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Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO 2005 ASSEMBLY BILL 842

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At the locations indicated, amend the bill as follows:

1. Page 3, line 2: after that line insert:

"SECTION 3g. 29.931 (1) of the statutes is amended to read:

29.931 (1) SEIZURE AND CONFISCATION OF WILD ANIMALS OR PLANTS. The department and its wardens shall seize and confiscate any wild animal, carcass or plant caught, killed, taken, had in possession or under control, sold or transported in violation of ~~this chapter or ch. 169~~ any of the laws for which the department and its wardens have enforcement authority under s. 29.921. The officer also may, with or without warrant, open, enter and examine all buildings, camps, boats on inland or outlying waters, vehicles, valises, packages and other places where the officer has probable cause to believe that wild animals, carcasses or plants, that are taken or held in violation of this chapter or ch. 169, any of these laws are to be found.

History: 1997 a. 248 ss. 108 to 110, 712; 2001 a. 56.

1 **SECTION 3r.** ✓ 29.931 (2) (a) of the statutes is amended to read:

2 29.931 (2) (a) The department and its wardens shall seize and hold, subject to
3 the order of the court for the county in which the alleged offense was committed, any
4 vehicle, boat or object declared by this chapter to be a public nuisance, or which they
5 have probable cause to believe is being used in violation of ~~this chapter or ch. 169 or~~
6 ~~s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, is being used in the~~
7 ~~commission of a crime involving an animal normally found in the wild in violation~~
8 ~~of s. 951.09, or is being used in the commission of a crime relating to a submerged~~
9 ~~cultural resource in violation of s. 44.47~~ any of the laws for which the department
10 and its wardens have enforcement authority under s. 29.921. ✓ If it is proven that the
11 vehicle, boat or object is a public nuisance or that within 6 months previous to the
12 seizure the vehicle, boat or object was used in violation of ~~this chapter or ch. 169 or~~
13 ~~s. 167.31, 287.81, 940.24, 941.20, 948.60, 948.605 or 948.61, was used in the~~
14 ~~commission of a crime involving an animal normally found in the wild in violation~~
15 ~~of s. 951.09, or was used in the commission of a crime relating to a submerged cultural~~
16 ~~resource in violation of s. 44.47~~ any of the laws for which the department and its
17 wardens have enforcement authority under s. 29.921, ✓ it shall be confiscated if the
18 court directs in its order for judgment.” ✓

History: 1997 a. 248 ss. 108 to 110, 712; 2001 a. 56.

19 **2.** Page 3, line 7: delete lines 7 to 18 and substitute:

20 **SECTION 5m.** ✓ 29.934 (1) (a) of the statutes is amended to read:

21 29.934 (1) (a) All wild animals, carcasses or ^{scored} ~~plants,~~ ~~vehicles,~~ ~~boats,~~ ~~objects~~ ✓
22 that are confiscated by the department for a violation of ~~this chapter or ch. 169~~ and
23 ~~all vehicles, boats or objects confiscated by the department for a violation of this~~
24 ~~chapter or ch. 169~~ any of the laws for which the department and its wardens have

1 enforcement authority under s. 29.921 shall, if not destroyed as authorized by law,
2 be sold at the highest price obtainable except as provided in ss. 29.936 and 29.938,
3 by the department, or by an agent on commission under supervision of the
4 department. The net proceeds of sales under this subsection, after deducting the
5 expense of seizure and sale and any commissions and any amounts owing to holders
6 of security interests under par. (c) or (d), shall be remitted to the department. The
7 remittance shall be accompanied by a report of the sales, supported by vouchers for
8 expenses and commissions, and shall be filed with the department.”

History: 1975 c. 97, 199; 1981 c. 98 s. 3; 1993 a. 169; 1995 a. 79, 126, 225; 1997 a. 35; 1997 a. 248 ss. 113 to 115; Stats. 1997 s. 29.934; 1997 a. 285 s. 1; 1999 a. 32; 2001 a. 56, 109.

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(END)