

2011 DRAFTING REQUEST

Bill

Received: **02/29/2012**

Received By: **btradewe**

Wanted: **Soon**

Companion to LRB:

For: **Jim Holperin (608) 266-2509**

By/Representing: **Nathan**

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - animals
Environment - water quality
Nat. Res. - fish and game**

Addl. Drafters: **rkite**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Holperin@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes related to aquaculture

Instructions:

Like 11-1772/2 with one change, 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> |
|--------------|------------------------|------------------------|------------------------|----------------|-----------------------|------------------------|-----------------|
| /? | btradewe 02/29/2012 | csicilia 02/29/2012 | | _____ | | | State |
| /1 | | | jfrantze 02/29/2012 | _____ | lparisi 02/29/2012 | sbasford 02/29/2012 | |

FE Sent For:

<END>

*atw
3/1*

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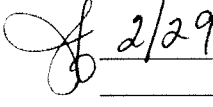
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|--------------|----------------|-----------------|--------------|--|------------------|-----------------|-----------------|
| 1? | btradewe | 1 is 2/29 12 | |  2/29 | | | |

FE Sent For:

<END>

Tradewell, Becky

From: Lee, Crystal
Sent: Tuesday, February 28, 2012 10:14 AM
To: Kite, Robin; Tradewell, Becky
Cc: Marklein, Howard; Lee, Crystal; Meinholz, Susan
Subject: FW: Aquaculture Amendment

Importance: High

Robin & Becky,

DNR found an additional source of concern in our legislation. Could we get an amendment drafted to remove any changes to the definition of "Agricultural Use" on Page 4, Lines 3-7?

Also, I believe Senator Holperin wanted a senate version drafted, so I will give permission to release this draft to his office.

Please let me know if you have any questions or concerns.

Sincerely,

Crystal Lee

Legislative Assistant
Office of State Representative Howard Marklein
51st Assembly District
608-266-7502
Crystal.Lee@legis.wi.gov

#1 Preferred recommendation

- Page 4, Lines 3-7; Recommend no change to the definition of "Agricultural Use" under 30.40(1)

Tradewell, Becky

From: Kite, Robin
Sent: Wednesday, February 29, 2012 10:14 AM
To: Tradewell, Becky
Subject: FW: LRB 1772/2: Aquaculture

FYI

From: Lee, Crystal
Sent: Wednesday, February 29, 2012 10:12 AM
To: Kite, Robin
Subject: RE: LRB 1772/2: Aquaculture

Yes, please. This way we can move forward without an amendment in the Senate version.

Crystal Lee

Legislative Assistant
Office of State Representative Howard Marklein
51st Assembly District
608-266-7502
Crystal.Lee@legis.wi.gov

From: Kite, Robin
Sent: Wednesday, February 29, 2012 10:10 AM
To: Lee, Crystal
Subject: RE: LRB 1772/2: Aquaculture

Crystal:

With regard to the companion that we are preparing for Sen. Holperin – should the draft for his office incorporate the change that I am drafting as an amendment for your office?

Thanks.
Robin

From: Lee, Crystal
Sent: Wednesday, February 29, 2012 10:07 AM
To: Inabnet, Kay
Cc: Lee, Crystal; Kite, Robin
Subject: LRB 1772/2: Aquaculture

Kay,

I hope you're doing well. I recently sent over a bill jacket for introduction. Once that is introduced, can you let me know the bill number? I need to draft an amendment asap for it.

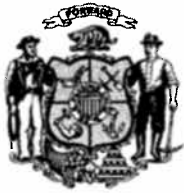
Thank you!

Sincerely,

Crystal Lee

Legislative Assistant
Office of State Representative Howard Marklein

51st Assembly District
608-266-7502
Crystal.Lee@legis.wi.gov



State of Wisconsin
2011 - 2012 LEGISLATURE

Today

2011 BILL

4211/1
LRB-1772/2
RCT&RNK:jld:rs
Stays (MNR)

SAV

Gen Cat
please reperate
↓

one change on p. 4

1 AN ACT *to repeal* 29.733 (2) (c) 2., 29.733 (2) (c) 3., 29.733 (2) (c) 4. and 95.60 (2)
2 (d); *to renumber and amend* 29.733 (2) (c) 1.; *to amend* 29.733 (1) (d), 29.733
3 (2) (f), 30.40 (1), 95.60 (2) (a) and 95.60 (4) (c); and *to create* 29.733 (1) (c) 3.,
4 29.733 (1m), 36.58 (7), 95.60 (2) (e), 95.60 (4) (d), 283.31 (5m) and 299.15 (3) (f)
5 of the statutes; **relating to:** the regulation of aquaculture.

Analysis by the Legislative Reference Bureau

AQUACULTURE

Use of natural bodies of water

Under current law, a person may not use a natural body of water as a fish farm unless the water body is a freeze-out pond or preexisting fish rearing facility and unless the Department of Natural Resources (DNR) issues person a permit (natural water body permit). The person and the water body must also meet certain additional conditions. One of those conditions requires DNR to determine that no substantial public interest exists in the body of water and that no public or private rights in the body of water will be damaged (interest and rights determination). This bill provides that the requirement to obtain a natural water body permit, the requirement that the water body be a freeze-out pond or preexisting fish rearing facility, and the requirement that DNR make an interest and rights determination do not apply to a person seeking to use a natural body of water as a fish farm if the person has been issued a permit with respect to that body of water that authorizes

BILL

the person to change the course of or straighten a stream, to enlarge a waterway, or to construct a dam.

Generally, under current law, DNR must renew a natural water body permit unless DNR finds that there has been a substantial change in circumstances related to DNR's interest and rights determination. This bill provides that a natural water body permit, once issued, does not expire unless DNR makes such a finding.

This bill also prohibits DNR from promulgating rules that require DNR, before it issues a natural water body permit, to hold a hearing or provide notice that it will not hold a hearing. In addition, the bill requires DNR to post notice of every application for a natural water body permit on DNR's Internet Web site.

Wastewater discharge permits

Current law generally prohibits a person from discharging pollutants into the surface water or groundwater without a wastewater discharge permit from DNR. The law requires persons required to have permits, other than persons who operate livestock farms, to pay an annual wastewater discharge fee based in part on the amount of pollutants discharged. The fees are deposited into the general fund.

This bill exempts persons who operate fish farms from the wastewater discharge fee.

The bill also requires DNR to include, in wastewater discharge permits for fish farms that produce more than 100,000 pounds of fish per year, requirements that are based on, and are not more stringent than, requirements in a specified regulation of the federal Environmental Protection Agency applicable to those fish farms.

Record-keeping

Current law requires a person who operates a fish farm to keep records on purchases, sales, and production of fish and fish eggs and any other records required by the Department of Agriculture, Trade and Consumer Protection (DATCP).

This bill provides that a person who operates a fish farm is not required to keep records on the sale of fish to an individual for the individual's personal use.

Importing fish

Current law generally requires a person who brings fish or fish eggs into this state for the purpose of introduction into lakes or streams, of use as bait, or of rearing in a fish farm without an annual permit issued by DATCP.

This bill exempts a person bringing fish or fish eggs from a fish farm in another state to a fish farm in this state from the requirement to have an importation permit if the person has a fish health certificate that covers the fish or fish eggs and that complies with DATCP's rules on fish health certificates.

Current law exempts DNR from the requirement to have a permit from DATCP to bring fish into this state. This bill eliminates that exemption.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

BILL

1 **SECTION 1.** 29.733 (1) (c) 3. of the statutes is created to read:

2 29.733 (1) (c) 3. A body of water for which the department has issued a permit
3 under s. 30.19, 30.195, or 31.04.

4 **SECTION 2.** 29.733 (1) (d) of the statutes is amended to read:

5 29.733 (1) (d) ~~A. If the department has not issued a permit for the body of water~~
6 under s. 30.19, 30.195, or 31.04, a permit for the body of water has been issued under
7 sub. (2).

8 **SECTION 3.** 29.733 (1m) of the statutes is created to read:

9 29.733 (1m) The department shall post notice of every application submitted
10 to the department under this section on the department's Internet Web site.

11 **SECTION 4.** 29.733 (2) (c) 1. of the statutes is renumbered 29.733 (2) (c) and
12 amended to read:

13 29.733 (2) (c) ~~The department, subject~~ Subject to s. 29.024 (2g) and (2r), shall
14 ~~renew~~ a permit issued under this subsection does not expire unless the department
15 determines that there has been a substantial change in circumstances that is related
16 to a determination made under par. (a) for the natural body of water or that is related
17 to the application of the criteria promulgated under par. (f) to the body of water.

18 **SECTION 5.** 29.733 (2) (c) 2. of the statutes is repealed.

19 **SECTION 6.** 29.733 (2) (c) 3. of the statutes is repealed.

20 **SECTION 7.** 29.733 (2) (c) 4. of the statutes is repealed.

21 **SECTION 8.** 29.733 (2) (f) of the statutes is amended to read:

22 29.733 (2) (f) The department shall promulgate rules to establish the fees,
23 criteria and procedures to be used in issuing permits under this subsection. The
24 rules may not require the department, before issuing a permit under this subsection,

BILL

1 to hold a hearing or to provide notice to any person, other than the applicant, that
2 the department will proceed on an application for a permit without a hearing.

3 **SECTION 9.** 30.40 (1) of the statutes is amended to read:

4 30.40 (1) "~~Agricultural use~~" means beekeeping; dairying; egg production;
5 feedlots; grazing; floriculture; ~~aquaculture~~; raising of livestock; raising of poultry;
6 raising of fruits, ~~nuts and berries~~; raising of grains, grass, ~~mint~~ and seed crops;
7 raising of vegetables; and sod farming.

8 **SECTION 10.** 36.58 (7) of the statutes is created to read:

9 36.58 (7) CONFIDENTIALITY OF RECORDS RELATING TO AQUACULTURE. Any
10 information kept by the veterinary diagnostic laboratory that identifies the owners
11 of farm-raised fish, as defined in s. 95.001 (1) (ah), and that relates to testing results
12 or diagnosis is not subject to inspection or copying under s. 19.35 except as the
13 veterinary diagnostic laboratory determines is necessary to protect the public
14 health, safety, or welfare.

15 **SECTION 11.** 95.60 (2) (a) of the statutes is amended to read:

16 95.60 (2) (a) ~~No~~ Except as provided in par. (e), no person may bring any fish or
17 fish eggs into this state for the purpose of introduction into the waters of the state,
18 of use as bait or of rearing in a fish farm without an annual permit issued by the
19 department.

20 **SECTION 12.** 95.60 (2) (d) of the statutes is repealed.

21 **SECTION 13.** 95.60 (2) (e) of the statutes is created to read:

22 95.60 (2) (e) A person bringing fish or fish eggs from a fish farm in another state
23 to a fish farm in this state is not required to have a permit under par. (a) if the person
24 has a fish health certificate that covers the fish or fish eggs and that complies with
25 the requirements for fish health certificates specified by the department by rule.

Basford, Sarah

From: Meinholz, Susan

Sent: Wednesday, February 29, 2012 1:57 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-4211/1 Topic: Changes related to aquaculture

Please Jacket LRB 11-4211/1 for the SENATE.

2/29/2012