

2011 DRAFTING REQUEST

Bill

Received: **09/15/2011**

Received By: **rkite**

Wanted: **As time permits**

Companion to LRB:

For: **Thomas Tiffany (608) 266-7694**

By/Representing: **Jessica**

May Contact:

Drafter: **rkite**

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

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Tiffany@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Possession of animals killed by vehicles

Instructions:

Same as 2009 AB 548 (LRB-2967)

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>
/?	rkite 09/16/2011	mduchek 09/30/2011		_____			
/1			rschluet 09/30/2011	_____	lparisi 09/30/2011	mbarman 10/17/2011	

FE Sent For:

*none
needed*

<END>

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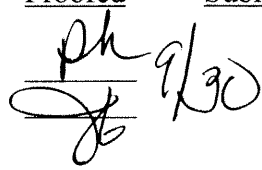
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/?	rkite						

FE Sent For:

<END>

Wanted: Fri. 9/30

Rm not run



State of Wisconsin
2009 - 2010 LEGISLATURE

2905/11

LRB-2967/3

RNK:bjk:ph

2011
~~2009~~ ASSEMBLY BILL ~~5481~~

D-Note

In
9/16

November 5, 2009 - Introduced by Representatives HRAYCHUCK, ZIGMUNT, SMITH, VRUWINK, FRISKE, MOLEPSKE JR., BALLWEG, BROOKS, GUNDERSON, GARTHWAITE, STRACHOTA, DANOU, BERCEAU BIES, PETROWSKI and M. WILLIAMS, cosponsored by Senators HOLPERIN, VINEHOUT, A. LASEE, TAYLOR, GROTHMAN, SCHULTZ, LASSA, HOPPER and OLSEN. Referred to Committee on Fish and Wildlife.

reg en eat

1 AN ACT *to repeal* 29.347 (1) (intro.) (except 29.347 (1) (title)) and 29.347 (5) (title);
2 *to renumber* 29.347 (5) (b) 1. and 2., 29.347 (5) (c) and 29.347 (5) (d); *to*
3 *renumber and amend* 29.347 (1) (a), 29.347 (1) (b), 29.347 (5) (a) and 29.347
4 (5) (b) (intro.); *to amend* 29.184 (8), 29.347 (1) (title), 29.347 (2), 29.347 (2m)
5 (a) and 29.347 (3) (b); and *to create* 29.349 (title) and (3) of the statutes;
6 **relating to:** possession of certain animals killed by vehicles.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) is authorized to issue hunting, fishing, and trapping licenses, permits, tags, and other approvals (approvals) and to otherwise establish and maintain conditions regulating hunting, fishing, and trapping. Generally, current law requires a person to have a valid approval to hunt a deer and to take possession of the deer carcass.

Current law authorizes a person who accidentally kills a deer while operating a motor vehicle on a highway to take possession of the deer carcass and to remove it from the scene of the accident if the person has the carcass tagged by a law enforcement officer or gives the law enforcement officer certain identifying information and has the carcass tagged at a later time as instructed by the law enforcement officer. Current law prohibits DNR from charging a fee to issue a tag for this purpose. Under this bill, the law regulating the possession of the carcass of a deer killed by a vehicle also applies to bear and wild turkey.

ASSEMBLY BILL 548

This bill allows a person who accidentally kills certain other small game animals while operating a motor vehicle on a highway to also take possession of the carcass of that small game animal. Under the bill, the operator of the motor vehicle may take possession of the carcass of the small game animal, if the animal is not a fisher, otter, or bobcat, if the motor vehicle operator possesses an approval that authorizes the hunting or trapping of the kind of animal killed, and if the animal is killed during the open season for that animal. If the operator of the motor vehicle does not want to take possession of the carcass, any other person may take possession of the carcass if that person possesses an approval that authorizes the hunting or trapping of the kind of animal killed by the motor vehicle, and if the animal was killed during the open season for that animal. Unlike current law authorizing the possession of the carcass of a deer killed by a vehicle, a person who is authorized under this bill to take possession of a small game animal killed by a vehicle need not have the animal tagged by a law enforcement officer.

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

1 **SECTION 1.** 29.184 (8) of the statutes is amended to read:

2 29.184 (8) CARCASS TAG. The department shall issue a bear carcass tag to each
3 person who is issued a Class A bear license. ~~A Except as provided under s. 29.349~~
4 ~~(2), person who kills a bear shall immediately validate and attach the carcass tag to~~
5 ~~the bear. The carcass tag shall be attached and validated according to rules~~
6 ~~promulgated by the department.~~

INS B
2-6 → 7 **SECTION 2.** 29.347 (1) (title) of the statutes is amended to read:

8 29.347 (1) (title) DEFINITIONS DEFINITION.

9 **SECTION 3.** 29.347 (1) (intro.) (except 29.347 (1) (title)) of the statutes is
10 repealed.

11 **SECTION 4.** 29.347 (1) (a) of the statutes is renumbered 29.349 (1) and amended
12 to read:

ASSEMBLY BILL 548

1 29.349 (1) ~~Law~~ [✓] In this section, “law enforcement officer” means a warden or
2 any other law enforcement officer authorized by the department to issue tags for ear
3 ~~kill deer~~ [✓] an animal killed by a vehicle.

4 **SECTION 5.** 29.347 (1) (b) of the statutes is renumbered 29.347 (1) and amended
5 to read:

6 29.347 (1) ~~“Validated”~~ [✓] In this section, “validated” means marked with specified
7 information in the manner required by the department.

8 **SECTION 6.** 29.347 (2) of the statutes is amended to read:

9 29.347 (2) DEER OR ELK CARCASS TAGS. Except as provided under ~~sub. (5) and s.~~
10 ss. 29.324 (3) and 29.349 (2), any person who kills a deer shall immediately attach
11 to the ear or antler of the deer a current validated deer carcass tag which is
12 authorized for use on the type of deer killed. Any person who kills an elk shall
13 immediately attach to the ear or antler of the elk a current validated elk carcass tag.
14 Except as provided under sub. (2m) or s. 29.89 (6), no person may possess, control,
15 store, or transport a deer carcass unless it is tagged as required under this
16 subsection. Except as provided under sub. (2m), no person may possess, control,
17 store, or transport an elk carcass unless it is tagged as required under this
18 subsection. A person who kills a deer or an elk shall register the deer or elk in the
19 manner required by the department. A person who kills a deer or an elk shall
20 possess, control, store, or transport the deer or elk carcass in compliance with rules
21 promulgated by the department under s. 29.063 (3). The carcass tag may not be
22 removed before registration. The removal of a carcass tag from a deer or an elk before
23 registration renders the deer or elk untagged.

24 **SECTION 7.** 29.347 (2m) (a) of the statutes is amended to read:

ASSEMBLY BILL 548

SECTION 7

1 29.347 (2m) (a) A carcass tag attached under sub. (2) and a registration tag
2 attached by the department or a car kill tag attached under ~~sub. (5) s. 29.349 (2)~~ may
3 be removed from a gutted carcass at the time of butchering, but the person who killed
4 or obtained the ~~deer or elk~~ ^{animal} shall retain all tags until the meat is consumed.

5 **SECTION 8.** 29.347 (3) (b) of the statutes is amended to read:

6 29.347 (3) (b) No person may possess or control deer or elk antlers in the velvet
7 or a deer or an elk skin in the spotted coat of a lawfully killed deer or elk unless the
8 person to whom the carcass tag for the deer or elk was issued, or the person who had
9 the deer tagged under ~~sub. (5) s. 29.349 (2)~~, has requested and received authorization
10 from the department to control or possess the antlers or skin. A request for written
11 authorization from the department shall be made within 7 days after the carcass tag
12 has been attached to the deer or elk.

13 **SECTION 9.** 29.347 (5) (title) of the statutes is repealed.

14 **SECTION 10.** 29.347 (5) (a) of the statutes is renumbered 29.349 (2) (a) and
15 amended to read:

16 29.349 (2) (a) Subject to ~~sub. s. 29.347~~ (6), any person who while operating a
17 motor vehicle on a highway accidentally collides with and kills a bear, deer, or wild
18 turkey may take possession of the carcass. Subject to ~~sub. s. 29.347~~ (6), if the motor
19 vehicle operator does not want to take the carcass, the carcass may be taken by any
20 other person who is present at the scene of the accident at the time the collision
21 occurs or at any time after the collision occurs.

22 **SECTION 11.** 29.347 (5) (b) (intro.) of the statutes is renumbered 29.349 (2) (b)
23 (intro.) and amended to read:

24 29.349 (2) (b) (intro.) No person may take possession of the carcass of a bear,
25 deer, or wild turkey killed in the manner specified in par. (a) and remove the carcass

ASSEMBLY BILL 548

1 from the scene of the accident unless the person has complied with rules promulgated
2 by the department under s. 29.063 (3) and one of the following apply:

3 SECTION 12. 29.347 (5) (b) 1. and 2. of the statutes are renumbered 29.349 (2)
4 (b) 1. and 2.

5 SECTION 13. 29.347 (5) (c) of the statutes is renumbered 29.349 (2) (c).

6 SECTION 14. 29.347 (5) (d) of the statutes is renumbered 29.349 (2) (d).

7 SECTION 15. 29.349 (title) and (3) of the statutes are created to read:

8 29.349 (title) **Animals killed by** ^{motor} **vehicles.**

9 (3) (a) Except as provided under par. (b) or as authorized under s. 29.614, no
10 person may take possession of the carcass of a small game animal killed by a person
11 who accidentally collides with the small game animal while operating a motor
12 vehicle on a highway unless all of the following apply:

13 1. The small game animal is killed during the open season for ^{hunting or trapping} that animal.

14 2. The small game animal is not a bobcat, fisher, or otter.

15 3. The person possesses an approval issued under this chapter that authorizes
16 the hunting or trapping of the kind of small game animal killed.

17 4. The person is the operator of the motor vehicle.

18 (b) If an operator of a motor vehicle who is authorized under par. (a) to take
19 possession of the carcass of a small game animal does not want to take possession of
20 the carcass, any other person may take possession of the carcass and remove it from
21 the scene of the accident if the person possesses an approval issued under this
22 chapter that authorizes the hunting or trapping of the kind of small game animal
23 killed by the operator of the motor vehicle and the person takes the carcass during
24 the open season for that animal.

INS.
5-5

ASSEMBLY BILL 548

SECTION 15

1 (c) The department may not charge a person a fee to take possession of the
2 carcass of a small game animal if the person is authorized to possess the carcass
3 under this subsection.

(END)

INS
6-3
4 →

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2905/lins.
RNK:.....

INSERT 5-5

1 **SECTION 1.** 29.347 (5) (c) of the statutes is renumbered 29.349 (2) (c) and
2 amended to read:

3 29.349 (2) (c) The person removing a ^{strike both sides} ~~the carcass of a deer~~ under the procedure
4 specified in par. (b) 2. shall have the carcass tagged within 24 hours after receiving
5 the instructions under par. (b) 2.

History: 1975 c. 97, 199; 1983 a. 546; 1991 a. 269, 316; 1995 a. 79, 126; 1997 a. 248 s. 504; Stats. 1997 s. 29.347; 1999 a. 9; 2001 a. 16, 56, 109; 2003 a. 247, 321; 2005 a. 286.

INSERT 6-3

6
7 **SECTION 2.** 29.354 (1) of the statutes is amended to read:

8 29.354 (1) APPROVAL NECESSARY. No person may possess or have under his or
9 her control any game bird or game animal or the carcass of any game bird or game
10 animal unless the person has a valid hunting license, sports license, conservation
11 patron license, taxidermist permit, or scientific collector permit. This subsection
12 does not apply to a person who takes possession of a ^{bear} deer under s. 29.349 (2) (a) and
13 who complies with the requirements under s. 29.349 (2) (b). or wild turkey

History: 1973 c. 214; 1983 a. 27; 1985 a. 29; 1991 a. 269; 1995 a. 79; 1997 a. 27; 1997 a. 248 ss. 509 to 511; Stats. 1997 s. 29.354; 2001 a. 56.

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2905/linsB
RNK:.....

INSERTB- 2-6

1

2

SECTION 1. 29.184 (8) (a) of the statutes, as affected by 2011 Wisconsin Act 28,

3

is amended to read:

4

29.184 (8) (a) The department shall issue a bear carcass tag to each person who

5

is issued a Class A bear license. Except as provided under par. (b) and s. 29.349 (2),

6

a person who kills a bear shall immediately validate and attach the carcass tag to

7

the bear. The carcass tag shall be attached and validated according to rules

8

promulgated by the department.

History: 1985 a. 270; 1997 a. 1 ss. 57 to 74, 77; 1997 a. 27, 191; 1997 a. 248 ss. 255 to 269; Stats. 1997 s. 29.184; 1997 a. 249 ss. 28 to 32; 1999 a. 9, 32, 186; 2001 a. 55; 2003 a. 59; 2005 a. 25, 387; 2007 a. 65, 66; 2009 a. 39, 119; 2011 a. 28; s. 13.92 (1) (bm) 2.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2905/1dn

RNK:j.....

Date

med

This is a redraft of 2009 Assembly Bill 548. In the course of working on this draft, I noticed a discrepancy in current law. Current law provides, under s. 29.354 (1), stats., that no person may possess the carcass of a game animal unless the person has a valid hunting license. But s. 29.347 (5), stats., which allows a person to possess the carcass of a deer killed by a motor vehicle, does not specify whether the person is exempt from the requirement under s. 29.347 (5) to have a hunting license in order to possess that deer carcass. I think, although I am not certain, that the intention of the car-killed deer statute is to allow a person to take a deer carcass that is killed by a motor vehicle even if the person does not have a hunting license. Accordingly, I have included language in this version of the draft that clarifies that a person may take possession of a car-killed deer without a having a hunting license. You may want to discuss this issue with Tom Van Haren who is with the Bureau of Law Enforcement at the Department of Natural Resources to ensure that my understanding of current law is correct.

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

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

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

LRB-2905/1dn
RNK:med:rs

September 30, 2011

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Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Basford, Sarah

From: Augustyn, Jessie
Sent: Monday, October 17, 2011 11:02 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-2905/1 Topic: Possession of animals killed by vehicles

Please Jacket LRB 11-2905/1 for the ASSEMBLY.