

2017 DRAFTING REQUEST

Bill

For: **Dana Wachs (608) 266-7461** Drafter: **kpaczusk**
 By: **Bob** Secondary Drafters:
 Date: **2/22/2017** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Wachs@legis.wisconsin.gov**
 Carbon copy (CC) to: **mary.pfotenhauer@legis.wisconsin.gov**
konrad.paczuski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Fence requirements for deer farms with CWD presence

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpaczusk 3/14/2017	wjackson 3/16/2017			
/P1	kpaczusk 4/18/2017	wjackson 4/19/2017	mbarman 3/16/2017		State
/P2	kpaczusk 4/27/2017	wjackson 4/27/2017	lparisi 4/24/2017		State
/P3	kpaczusk 4/28/2017	wjackson 4/28/2017	lparisi 4/27/2017		State
/1			rmilford	rmilford	State

per KP

Vers. Drafted

Reviewed

Submitted
4/28/2017

Jacketed
4/28/2017

Required

FE Sent For:

*at
intro*

<END>

Paczuski, Konrad

From: Meyer, Bob
Sent: Wednesday, February 22, 2017 3:00 PM
To: Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>
Subject: Deer Farm Proposal

Rep. Wachs would like a bill drafted that does the following:

- Requires double fencing or electric fencing of any cervid farm within 30 days of determination of CWD infected animal on the farm.
- Requires DNR to inspect all cervid farm fences every two years.
- Requires that external fences and gates on cervid farms have electronic monitoring systems indicating that the gates are open.
- Requires that external fences and gates on cervid farms where the cervid herd has been depopulated because of presence of CWD be maintained in good condition until such time as DNR and DATCP certify that cervid farm has become CWD prion free.
- Require DNR to issue order to cervid farm owners to repair external fences and gates that are not in compliance with fence requirements.

Bob Meyer
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State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-22770-ep1
KP: ...
WJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN: 3/14/2017
OUT: 3/15/2017

gc

deer

1 AN ACT ...; relating to: fence requirements for cervid farms.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

FES →

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

2 SECTION 1. 90.20 (1) (a) of the statutes is renumbered 90.20 (1) (ar).

3 SECTION 2. 90.20 (1) (ag) of the statutes is created to read:

4 90.20 (1) (ag) "Department" means the department of natural resources.

5 SECTION 3. 90.20 (2) (f) of the statutes is created to read:

6 90.20 (2) (f) (intro.) Within 30 days after chronic wasting disease is confirmed
7 in a farm-raised deer that was kept in captivity on the farm, there is either of the
8 following:

the fence is a person that keeps
farm-raised deer must install

9 1. Double perimeter fences, with each fence meeting the requirements
10 established by this subsection.

under

SECTION 3

****NOTE: Would you like to specify a minimum or maximum distance between the two fences, or any other requirements for the double fencing, or require an agency to promulgate rules specifying requirements?

1 2. An electric fence consisting of strands of strong, tightly stretched wire,
2 charged by an electric or battery fencer.

****NOTE: Would you like to specify the requirements for an "electric fence," such as the number of strands, distance between strands, fence height, etc., or require an agency to promulgate rules specifying requirements?

3 **SECTION 4.** ^{who} 90.20 (2) (g) of the statutes is created to read:
4 ~~A person that keeps farm-raised deer shall ensure that~~
5 90.20 (2) (g) ^{is} Each gate in the fence has an electronic monitoring system that ^{under par. (f)} **STEP**
6 indicates when the gate is open

6 **SECTION 5.** 90.20 (5), (6) and (7) of the statutes are created to read:

7 90.20 (5) MAINTENANCE AFTER DEPOPULATION. If a farm-raised deer that is not
8 a white-tailed deer has been removed from a deer farm because chronic wasting
9 disease has been confirmed ^{on the deer farm} in a cervid, the person ^{at that} who operates the deer farm shall **STEP**
10 maintain the fences enclosing the deer farm in compliance with the requirements
11 established by ^{a under} sub. (2) until the department and the department of agriculture, trade
12 and consumer protection certify that the deer farm is free of chronic wasting disease
13 prions.

14 **(6) INSPECTION CERTIFICATES.** (a) No person may keep farm-raised deer that are
15 not white-tailed deer unless the deer are contained in a fenced area for which the
16 person holds a valid fence inspection certificate issued by the department under this
17 subsection.

18 (b) The department may not issue a fence inspection certificate for a fence that
19 is used to contain farm-raised deer that are not white-tailed deer unless the
20 department inspects the fence and determines that the fence meets the requirements
21 established by ^{a under} sub. (2).

****NOTE: Sections 90.21 (2) (c) and (d) contain provisions that apply to white-tailed deer farms. Section 90.21 (2) (c) requires a person to have a fence inspection certificate before applying for the registration under s. 95.55 that is required for all deer farms. Section 90.21 (2) (d) provides that DNR should issue a fence inspection certificate for deer farms that cross the Wisconsin border into another state if certain conditions are met. Please advise whether those provisions should also apply to non-white-tailed deer farms.

1 (c) A fence inspection certificate issued under this subsection is valid for 2 years
2 from the date of issuance.

****NOTE: Please advise if instead you would like all deer fence inspection certificates to be valid for a 2-year period that begins and ends on the same dates for all deer farms.

****NOTE: Sections 90.21 (3) (a) and (b) impose inspection fees for white-tailed deer farms; please let me know if the draft should impose deer fence inspection fees for non-white-tailed deer farms.

3 (7) ENFORCEMENT AUTHORITY. If a fence fails to comply with the requirements
4 established by sub. (2) or (5), the department shall issue an order directing the person
5 who is required to maintain the fence to bring the fence into compliance within 10
6 days after the issuance of the order. If the person fails to comply with the order within
7 10 days of its issuance, the department may revoke the applicable fence inspection
8 certificate.

****NOTE: There are no existing penalties for operating a non-white-tailed deer farm without fences that comply with statute. Please let me know if the penalties for violating the fence requirements for white-tailed deer in s. 90.21 (8) should apply. Those penalties are a civil forfeiture of up to \$200 or suspension of a deer farm registration under s. 95.55.

9 SECTION 6. 90.21 (2) (b) of the statutes is amended to read:

10 90.21 (2) (b) The department may not issue a fence inspection certificate under
11 this section for a fence that is used to contain farm-raised deer that are white-tailed
12 deer unless the department inspects the fence and determines that the fence meets
13 the requirements established by the department by rule under sub. (6).

History: 2001 a. 56, 105; 2005 a. 409.

14 SECTION 7. 90.21 (2m) of the statutes is created to read:

1 **90.21 (2m) MAINTENANCE AFTER DEPOPULATION.** If a farm-raised deer that is a
 2 white-tailed deer has been removed from a deer farm because chronic wasting
 3 disease has been confirmed ^{e on the deer farm} in a cervid, the person ^{STBT} who operates the deer farm shall
 4 maintain the fences enclosing the deer farm in compliance with the requirements
 5 established by the department by rule under sub. (6) until the department and the
 6 department of agriculture, trade and consumer protection certify that the deer farm
 7 is free of chronic wasting disease prions.

8 **SECTION 8.** 90.21 (3) (c) of the statutes is amended to read:

9 **90.21 (3) (c)** A fence inspection certificate issued under par. (a) or (b) shall be
 10 valid for 2 years from the date of issuance ~~until the 10th December 31~~ following the
 11 ~~date of issuance.~~

History: 2001 a. 56, 105; 2005 a. 409.

12 **SECTION 9.** 90.21 (6) of the statutes is amended to read:

13 **90.21 (6) RULES.** The Subject to sub. (6m), the department shall promulgate
 14 rules to establish requirements for fences for which fence inspection certificates are
 15 issued under this section. If the rules include provisions authorizing the placement
 16 of fences in navigable bodies of water, s. 30.12 does not apply to fences placed in
 17 compliance with these rules.

History: 2001 a. 56, 105; 2005 a. 409.

18 **SECTION 10.** 90.21 (6m) of the statutes is created to read:

19 **90.21 (6m) FENCE SPECIFICATIONS.** The rules promulgated under sub. (6) shall
 20 ^{STBT} require any person ^{STBT} who keeps farm-raised deer that are white-tailed deer to keep
 21 those deer enclosed by a fence that meets all of the following requirements:

22 (a) Within 30 days after chronic wasting disease is confirmed in a farm-raised
 23 deer that was kept in captivity on the farm, ^{the fence} there is either of the following:

1 1. ^A Double perimeter fences^o, with each fence meeting the requirements
2 established ^{under} (by) this subsection.

3 2. An electric fence consisting of strands of strong, tightly stretched wire,
4 charged by an electric or battery fencer.

5 (b) Each gate in the fence has an electric monitoring system that indicates
6 when the gate is open.

7 **SECTION 11.** 90.21 (7) of the statutes is amended to read:

8 90.21 (7) ENFORCEMENT AUTHORITY. If a fence fails to comply with the
9 requirements established ^{e. under sub.} by sub. (2m) or by rule under sub. (6), the department may
10 shall issue an order directing the person who is required to maintain the fence to
11 bring the fence into compliance within 10 days after the issuance of the order. If the
12 person fails to comply with the order within 10 days of its issuance, the department
13 may revoke the applicable fence inspection certificate.

History: 2001 a. 56, 105; 2005 a. 409.

****NOTE: Please advise if you would like to delay the effective date of the requirements to give people operating deer farms time to achieve compliance.

****NOTE: Section 169.38 provides DNR with power to inspect, at any time, lands, structures, equipment, and records related to fences containing white-tailed deer. Should this draft authorize DNR to conduct inspections related to non-white-tailed deer farm fences? If DNR wanted to inspect a fence while a fence certificate is valid, for instance because there are complaints that the fence is in disrepair, it would probably need authority under s. 169.38 in order to do so.

14

(END)



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2277/PD-2
KP:wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN: 4/14/2017
OUT: 4/19/2017

INSERT

1 **AN ACT** to renumber 90.20 (1) (a); to amend 90.21 (2) (b), 90.21 (3) (c), 90.21 (6)
2 and 90.21 (7); and to create 90.20 (1) (ag), 90.20 (2) (f), 90.20 (2) (g), 90.20 (5),
3 (6) and (7), 90.21 (2m) and 90.21 (6m) of the statutes; relating to: fence
4 requirements for deer farms. ^{and granting rule-making authority}

Analysis by the Legislative Reference Bureau

INS A-e
This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

5 **SECTION 1.** 90.20 (1) (a) of the statutes is renumbered 90.20 (1) (ar).

6 **SECTION 2.** 90.20 (1) (ag) of the statutes is created to read:

7 90.20 (1) (ag) "Department" means the department of natural resources.

8 **SECTION 3.** 90.20 (2) (f) of the statutes is created to read:

1 90.20 (2) (f) Within 30 days after chronic wasting disease is confirmed in a
2 farm-raised deer that was kept in captivity on the farm, the fence is either of the
3 following:

4 1. A double-perimeter fence, with each fence meeting the requirements
5 established by this subsection.

****NOTE: Would you like to specify a minimum or maximum distance between the
two fences, or any other requirements for the double fencing, or require an agency to
promulgate rules specifying requirements?

6 2. An electric fence consisting of strands of strong, tightly stretched wire,
7 charged by an electric or battery fencer.

****NOTE: Would you like to specify the requirements for an "electric fence," such
as the number of strands, distance between strands, fence height, etc., or require an
agency to promulgate rules specifying requirements?

8 SECTION 4. 90.20 (2) (g) of the statutes is created to read:

9 90.20 (2) (g) Each gate in the fence has an electronic monitoring system that
10 indicates when the gate is open.

11 SECTION 5. 90.20 (5), (6) and (7) of the statutes are created to read:

12 90.20 (5) MAINTENANCE AFTER DEPOPULATION. If a farm-raised deer that is not
13 a white-tailed deer has been removed from a deer farm because chronic wasting
14 disease has been confirmed on the deer farm, the person who operates the deer farm
15 shall maintain the fences enclosing the deer farm in compliance with the
16 requirements under sub. (2) until the department and the department of agriculture,
17 trade and consumer protection certify that the deer farm is free of chronic wasting
18 disease prions.

19 90.20 (5) (6) INSPECTION CERTIFICATES. (a) No person may keep farm-raised deer that are
20 not white-tailed deer unless the deer are contained in a fenced area for which the

1 person holds a valid fence inspection certificate issued by the department under this
2 subsection.

INS 3-2

3 (b) The department may not issue a fence inspection certificate for a fence that
4 is used to contain farm-raised deer that are not white-tailed deer unless the
5 department inspects the fence and determines that the fence meets the requirements
6 under sub. (2).

****NOTE: Section 90.21 (2) (c) and (d) contain provisions that apply to white-tailed deer farms. Section 90.21 (2) (c) requires a person to have a fence inspection certificate before applying for the registration under s. 95.55 that is required for all deer farms. Section 90.21 (2) (d) provides that DNR should issue a fence inspection certificate for deer farms that cross the Wisconsin border into another state if certain conditions are met. Please advise whether those provisions should also apply to non-white-tailed deer farms.

7 (c) A fence inspection certificate issued under this subsection is valid for 2 years
8 from the date of issuance.

****NOTE: Please advise if instead you would like all deer fence inspection certificates to be valid for a 2-year period that begins and ends on the same dates for all deer farms.

****NOTE: Sections 90.21 (3) (a) and (b) impose inspection fees for white-tailed deer farms; please let me know if the draft should impose deer fence inspection fees for non-white-tailed deer farms.

9 (7) ENFORCEMENT AUTHORITY. If a fence fails to comply with the requirements
10 under sub. (2) or ^{s. 90.22 (2) or (3)} (5), the department shall issue an order directing the person who
11 is required to maintain the fence to bring the fence into compliance within 10 days
12 after the issuance of the order. If the person fails to comply with the order within 10
13 days of its issuance, the department may revoke the applicable fence inspection
14 certificate issued under sub. (6). (5)

INS 3-14

****NOTE: There are no existing penalties for operating a non-white-tailed deer farm without fences that comply with statutes. Please let me know if the penalties for violating the fence requirements for white-tailed deer in s. 90.21 (8) should apply. Those penalties are a civil forfeiture of up to \$200 or suspension of a deer farm registration under s. 95.55.

15 SECTION 6. 90.21 (2) (b) of the statutes is amended to read:

1 90.21 (2) (b) The department may not issue a fence inspection certificate under
2 this section for a fence that is used to contain farm-raised deer that are white-tailed
3 deer unless the department inspects the fence and determines that the fence meets
4 the requirements established by the department by rule under sub. (6).

INS 4-4

5 **SECTION 7.** 90.21 (2m) of the statutes is created to read:

6 90.21 (2m) MAINTENANCE AFTER DEPOPULATION. If a farm-raised deer that is a
7 white-tailed deer has been removed from a deer farm because chronic wasting
8 disease has been confirmed on the deer farm, the person who operates the deer farm
9 shall maintain the fences enclosing the deer farm in compliance with the
10 requirements established by the department by rule under sub. (6) until the
11 department and the department of agriculture, trade and consumer protection
12 certify that the deer farm is free of chronic wasting disease prions.

13 **SECTION 8.** 90.21 (3) (c) of the statutes is amended to read:

14 90.21 (3) (c) A fence inspection certificate issued under par. (a) or (b) shall be
15 valid for 2 years from the date of issuance ~~until the 10th December 31 following the~~
16 ~~date of issuance.~~

17 **SECTION 9.** 90.21 (6) of the statutes is amended to read:

18 90.21 (6) RULES. The Subject to sub. (6m), the department shall promulgate
19 rules to establish requirements for fences for which fence inspection certificates are
20 issued under this section. If the rules include provisions authorizing the placement
21 of fences in navigable bodies of water, s. 30.12 does not apply to fences placed in
22 compliance with these rules.

INS 4-22

23 **SECTION 10.** 90.21 (6m) of the statutes is created to read:

1 **90.21 (6m) FENCE SPECIFICATIONS.** The rules promulgated under sub. (6) shall
2 require any person who keeps farm-raised deer that are white-tailed deer to keep
3 those deer enclosed by a fence that meets all of the following requirements:

4 (a) Within 30 days after chronic wasting disease is confirmed in a farm-raised
5 deer that was kept in captivity on the farm, the fence is either of the following:

6 1. A double-perimeter fence, with each fence meeting the requirements
7 established under this subsection.

8 2. An electric fence consisting of strands of strong, tightly stretched wire,
9 charged by an electric or battery fencer.

10 (b) Each gate in the fence has an electric monitoring system that indicates
11 when the gate is open.

12 **SECTION 11.** 90.21 (7) of the statutes is amended to read:

13 **90.21 (7) ENFORCEMENT AUTHORITY.** If a fence fails to comply with the
14 requirements established under sub. (2m) ^{or s. 90.22 (3)} or by rule under sub. (6), the department
15 may shall issue an order directing the person who is required to maintain the fence
16 to bring the fence into compliance within 10 days after the issuance of the order. If
17 the person fails to comply with the order within 10 days of its issuance, the
18 department may revoke the applicable fence inspection certificate.

INS 5-18 1

****NOTE: Please advise if you would like to delay the effective date of the requirements to give people operating deer farms time to achieve compliance.

****NOTE: Section 169.38 provides DNR with power to inspect, at any time, lands, structures, equipment, and records related to fences containing white-tailed deer. Should this draft authorize DNR to conduct similar inspections related to non-white-tailed deer farm fences? If DNR wanted to inspect a fence while a fence certificate is valid, for instance because there are complaints that the fence is in disrepair, it would probably need authority under s. 169.38 in order to do so.

1 INS A

This bill subjects the fences that enclose deer farms to additional requirements, especially if chronic wasting disease (CWD) is confirmed in a farm-raised deer that is kept in captivity on the deer farm. Under the bill, "farm-raised deer" means any animal of the cervid family, which includes white-tailed deer, non-white-tailed deer, reindeer, elk, and moose, that is kept in captivity. The bill requires each deer farm to pay a fee for and hold a fence inspection certificate issued by the Department of Natural Resources after DNR inspects the fence enclosing the deer farm and determines that it meets certain requirements. The bill provides that a fence inspection certificate for a deer farm is valid for two years, except that a fence inspection certificate for a deer farm is valid for one year if CWD has been confirmed in a farm-raised deer kept in captivity on that deer farm. Current law does not require a fence inspection certificate for a deer farm unless the deer farm keeps at least one white-tailed deer, and under current law, the fence inspection certificates for deer farms keeping white-tailed deer are valid for approximately 10 years. (SP)

Further, the bill requires deer farms to install an electronic monitoring system, or other system approved by DNR, on each gate in the perimeter fence enclosing a deer farm. Additionally, under the bill, if CWD is confirmed in a farm-raised deer, the deer farm must install, within 30 days, either 1) a double-perimeter fence, with each layer of the fence meeting the mandatory specifications, or 2) an electric fence.

The bill also requires that if the farm-raised deer kept on a deer farm have been removed because CWD is confirmed at that deer farm, the operator of the deer farm, or the landowner, must maintain the fences enclosing the deer farm until DNR and the Department of Agriculture, Trade and Consumer Protection certify that the deer farm has been free of CWD prions for five years. If a fence fails to satisfy any of the specifications that it is required to meet, the bill requires DNR to issue an order to the person who is required to maintain the fence to bring it into compliance within ten days. The bill grants DNR authority to inspect the fence enclosing deer farms containing non-white-tailed deer at any time. DNR has authority under current law to inspect the fences enclosing white-tailed deer farms at any time. *must*

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

2
3 END INS A

4 INS 3-2

5 (b) The department may not issue a fence inspection certificate for a fence that
6 is used to contain farm-raised deer that are not white-tailed deer unless the

meet the
under the bill

1 department inspects the fence and determines that the fence satisfies all of the
2 following requirements:

3 1. The requirements under sub. (2).

4 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
5 kept in captivity on the deer farm, the requirements under s. 90.22 (2).

6 (c) Subject to ~~ss.~~^{s.} 90.22 (2) (b) and (4), a fence inspection certificate issued under
7 this subsection is valid for 2 years from the date of issuance.

8 (d) Subject to s. 95.55 (1) (c), no person may apply for registration under s. 95.55
9 in order to keep farm-raised deer that are not white-tailed deer without being first
10 issued a fence inspection certificate under this subsection.

11 (e) Notwithstanding pars. (a) and (b), a person may keep farm-raised deer and
12 the department shall issue a fence inspection certificate under this subsection if all
13 of the following apply:

14 1. The requirements of s. 95.55 (1) (c) are satisfied.

15 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
16 kept in captivity on the deer farm, the requirements under s. 90.22 (2).

17 **(6) FEES.** (a) The fee for a fence inspection certificate issued under sub. (5) is
18 \$50 for a fenced area that is ~~less~~^{a fewer} than 80 acres in size and \$100 for a fenced area that
19 is 80 acres or more in size.

20 (b) If a person expands a fenced area that is ~~less~~^{a fewer} than 80 acres in size during
21 the period that the fence inspection certificate issued under sub. (5) is valid so that
22 the fenced area is 80 acres or more in size, the person shall apply for a new fence
23 inspection certificate and pay an additional fee of \$50.

24 END INS 3-2

25 INS 3-14

1 **(8) PENALTIES.** (a) A court may suspend the fence inspection certificate issued
2 under sub. (5) of a person who violates this section and may issue an order
3 prohibiting the person from being issued another fence inspection certificate for a
4 period of up to 3 years.

5 (b) A court may suspend the registration issued under s. 95.55 of a person who
6 violates this section and may issue an order prohibiting the person from being
7 granted another registration for a period of up to 3 years.

8 END INS 3-14

9 INS 4-4

10 **SECTION 1.** 90.21 (3) (c) of the statutes is amended to read:

11 90.21 **(3)** (c) ~~A Subject to ss. 90.22 (2) (b) and (4), a fence inspection certificate~~
12 issued under par. (a) or (b) shall be valid for 2 years from the date of issuance ~~until~~
13 ~~the 10th December 31 following the date of issuance.~~

History: 2001 a. 56, 105; 2005 a. 409.

14 END INS 4-4

15 INS 4-22

16 **SECTION 2.** 90.21 (6m) of the statutes is created to read:

17 90.21 **(6m)** FENCE SPECIFICATIONS. The rules promulgated under sub. (6) shall
18 require any person who keeps farm-raised deer that are white-tailed deer to keep
19 those deer enclosed by a fence that satisfies all of the following requirements:

20 (a) Each gate in the fence has an electronic monitoring system, or other system
21 approved by the department by rule, that indicates when the gate is open.

22 (b) If chronic wasting disease has been confirmed in a farm-raised deer that
23 was kept in captivity on the deer farm, the requirements under s. 90.22 (2).

24 END INS 4-22

1 INS 5-18

2 SECTION 3. 90.22 of the statutes is created to read:

3 90.22 Fence requirements if chronic wasting disease confirmed at
4 deer farm. (1) DEFINITIONS. In this section:

5 (a) "Department" means the department of natural resources.

6 (b) "Farm-raised deer" has the meaning given in s. 95.001 (1) (ag).

7 (2) FENCE REQUIREMENTS. (a) Any person who keeps farm-raised deer, within
8 30 days after chronic wasting disease is confirmed in a farm-raised deer that was
9 kept in captivity on the deer farm, shall keep the farm-raised deer enclosed by a
10 fence that is either of the following:

11 1. A double-perimeter fence, with each fence meeting the requirements
12 established under s. 90.20 (2), if the deer farm contains only farm-raised deer that
13 are not white-tailed deer, or the requirements established by the department by rule
14 under s. 90.21 (6), if the deer farm contains farm-raised deer that are white-tailed
15 deer. The ^{e 2}two fences shall be at least 10 feet but not more than 16 feet apart.

16 2. An electric fence consisting of strands of strong, tightly stretched wire,
17 charged by an electric or battery fencer.

****NOTE: Would you like to specify the requirements for an "electric fence," such as the number of strands, distance between strands, fence height, etc., or require an agency to promulgate rules specifying requirements?

18 (b) If chronic wasting disease is confirmed in a farm-raised deer that is kept
19 in captivity on the deer farm, the deer farm must obtain a new fence inspection
20 certificate and pay the fence inspection fee, under s. 90.20, if the deer farm contains
21 only farm-raised deer that are not white-tailed deer, or ^{s.}90.21, if the deer farm
22 contains farm-raised deer that are white-tailed deer, within 30 days of making a
23 significant change in the location of the deer farm's perimeter fence.

1 **(3) MAINTENANCE AFTER DEPOPULATION.** If a farm-raised deer has been removed
2 from a deer farm because chronic wasting disease has been confirmed on the deer
3 farm, the person who operates the deer farm or owns the land shall maintain the
4 fences enclosing the deer farm in compliance with the requirements established
5 under sub. (2) and s. 90.20 (2), if the deer farm contains only farm-raised deer that
6 are not white-tailed deer, or by the department by rule under s. 90.21 (6), if the deer
7 farm contains farm-raised deer that are white-tailed deer, until the department and
8 the department of agriculture, trade and consumer protection certify that the deer
9 farm has been free of chronic wasting disease prions for 5 years.

 ****NOTE: Would you like the draft to specify a definition for "being free of chronic
wasting disease prions" or require an agency to promulgate rules to specify a standard?

10 **(4) INSPECTION CERTIFICATES.** (a) If chronic wasting disease is confirmed in a
11 farm-raised deer that was kept in captivity on a deer farm at which chronic wasting
12 disease has not been confirmed before, the fence inspection certificate issued to the
13 deer farm under s. 90.20 (5) or 90.21 expires on the earlier of the following dates:

- 14 1. Two years after the date of issuance of the fence inspection certificate.
- 15 2. Two months after the date that chronic wasting is confirmed in a farm-raised
16 deer that is kept in captivity on the deer farm.

17 (b) Each fence inspection certificate issued to a deer farm after a fence
18 inspection certificate expires under par. (a) is valid for (1) year after the date of (Sp)
19 issuance, until the department and the department of agriculture, trade and
20 consumer protection certify that the deer farm has been free of chronic wasting
21 disease prions for 5 years.

 ****NOTE: Please advise if these provisions are inconsistent with your instruction
to require deer farm fences to be inspected every 12 months after chronic wasting disease
is detected in a deer raised at that deer farm.

22 **SECTION 4.** 95.55 (1) (c) (intro.) of the statutes is amended to read:

1 95.55 (1) (c) (intro.) The Subject to s. 90.22 (2), the department shall register
2 a person to keep farm-raised deer in a fenced area that is located in this state and
3 another state without having the entire area in this state enclosed with a fence if all
4 of the following apply:

5 History: 1995 a. 79; 2001 a. 56; 2003 a. 179; 2005 a. 35, 359, 409; 2007 a. 97; 2009 a. 28; 2011 a. 209.

5 **SECTION 5.** 169.38 (1) (intro.) of the statutes is amended to read:

6 169.38 (1) DEPARTMENTAL AUTHORITY. (intro.) For purposes of enforcing s. 90.21
7 and rules promulgated under that section and, ch. 29 and rules promulgated under
8 that chapter, s. 90.20 and rules promulgated under that section, and s. 90.22, with
9 respect to a person who keeps farm-raised deer ~~that are white-tailed deer~~, and for
10 purposes of enforcing this chapter and ch. 29 and rules promulgated under this
11 chapter and ch. 29, with respect to a person who keeps farm-raised game birds or
12 wild animals under a license issued under s. 95.68, 95.69, or 95.71, a conservation
13 warden or representative of the department, upon presenting his or her credentials
14 to that person, may do any of the following:

15 History: 2001 a. 56.

15 **SECTION 6.** 169.38 (2) (d) of the statutes is amended to read:

16 169.38 (2) (d) At any time, if the inspection is limited to determining whether
17 a fence that is used to contain farm-raised deer ~~that are white-tailed deer~~ complies
18 with the requirements established by rule under s. 90.21 (6) or the requirements
19 established under s. 90.20 (2) or 90.22 (2) or (3).

20 History: 2001 a. 56.

20 **SECTION 7. Nonstatutory provisions.**

21 (1) The department of natural resources shall conduct a study concerning the
22 prevention of farm-raised deer from crossing through open gates in the fences
23 enclosing deer farms. The department of natural resources shall submit a report of
24 its findings under the study to the legislature in the manner provided under section

1 13.172 (2) of the statutes no later than the first day of the 13th month beginning after
2 the effective date of this subsection.

3 **SECTION 8. Initial applicability.**

4 (1) This act first applies to applications for a registration under section 95.55
5 of the statutes that are received by the department of agriculture, trade and
6 consumer protection on the effective date of this subsection.

7 **SECTION 9. Effective date.**

8 (1) This act takes effect on the 45th day after the day of publication.

9 END INS 5-18

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2277/P2dn

KP:...

Wij

Date

1) Representative Wachs:

2 Section 20.370 (1) (mu) provides an appropriation for certain DNR operations,
3 including operations that are conducted under s. 90.21 related to fencing of
4 farm-raised white-tailed deer. Additionally, s. 20.370 (3) (mu) appropriates funds for
5 DNR to conduct law enforcement operations under s. 90.21. This draft gives DNR the
6 duty of enforcing statutes related to fencing of non-white-tailed farm-raised deer, in
7 s. 90.20, and gives DNR the duty of enforcing statutes related to additional fencing
8 requirements for deer farms when chronic wasting disease is detected, under s. 90.22.
9 Please let me know if you would like to include these activities in the DNR's
10 appropriation under s. 20.370 (1) (mu) or 20.370(3) (mu) or both.

11 Thank you.

12
13
14
15

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Phone call with Rep. Wach's office 3/31;

Instructions for next version:

- move provisions containing add'l fence requirements if CWV confirmed to a new section
- after deer farm is depopulated, require person operating the deer farm or the landowner to maintain the fences
 - require the fences to be maintained until certified to be free of CWV prions for 5 years
- require DNR to inspect fences every year if CWV confirmed
- make suspension of deer farm registration under s. 95.55 the penalty for violating non-white-tailed deer fence provisions
- give DNR authority to inspect that is equivalent to inspection powers for s. 90.21
- make DNR conduct a review about preventing farm-raised deer from crossing through open gates
- delay the effective date 45 days

- KP



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2277/P2
KP:wlj

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 90.20 (1) (a); *to amend* 90.21 (2) (b), 90.21 (3) (c), 90.21 (6),
2 90.21 (7), 95.55 (1) (c) (intro.), 169.38 (1) (intro.) and 169.38 (2) (d); and *to create*
3 90.20 (1) (ag), 90.20 (2) (f), 90.20 (5), (6), (7) and (8), 90.21 (6m) and 90.22 of the
4 statutes; **relating to:** fence requirements for deer farms and granting
5 rule-making authority.

Analysis by the Legislative Reference Bureau

This bill subjects the fences that enclose deer farms to additional requirements, especially if chronic wasting disease (CWD) is confirmed in a farm-raised deer that is kept in captivity on the deer farm. Under the bill, "farm-raised deer" means any animal of the cervid family, which includes white-tailed deer, non-white-tailed deer, reindeer, elk, and moose, that is kept in captivity. The bill requires each deer farm to pay a fee for and hold a fence inspection certificate issued by the Department of Natural Resources after DNR inspects the fence enclosing the deer farm and determines that it meets certain requirements. The bill provides that a fence inspection certificate for a deer farm is valid for two years, except that a fence inspection certificate for a deer farm is valid for one year if CWD has been confirmed in a farm-raised deer kept in captivity on that deer farm. Current law does not require a fence inspection certificate for a deer farm unless the deer farm keeps at least one white-tailed deer. Under current law, the fence inspection certificates for deer farms keeping white-tailed deer are valid for approximately ten years.

Further, the bill requires deer farms to install an electronic monitoring system, or other system approved by DNR, on each gate in the perimeter fence enclosing a

deer farm. Additionally, under the bill, if CWD is confirmed in a farm-raised deer, the deer farm must install, within 30 days, either 1) a double-perimeter fence, with each layer of the fence meeting the mandatory specifications; or 2) an electric fence.

The bill requires that if the farm-raised deer kept on a deer farm have been removed because CWD is confirmed at that deer farm, the operator of the deer farm, or the landowner, must maintain the fences enclosing the deer farm until DNR and the Department of Agriculture, Trade and Consumer Protection certify that the deer farm has been free of CWD prions for five years. If a fence fails to meet the specifications under the bill, DNR must issue an order to the person who is required to maintain the fence to bring it into compliance within ten days. The bill grants DNR authority to inspect the fence enclosing deer farms containing non-white-tailed deer at any time. DNR has authority under current law to inspect the fences enclosing white-tailed deer farms at any time.

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:

1 **SECTION 1.** 90.20 (1) (a) of the statutes is renumbered 90.20 (1) (ar).

2 **SECTION 2.** 90.20 (1) (ag) of the statutes is created to read:

3 90.20 (1) (ag) "Department" means the department of natural resources.

4 **SECTION 3.** 90.20 (2) (f) of the statutes is created to read:

5 90.20 (2) (f) Each gate in the fence has an electronic monitoring system, or other
6 system approved by the department by rule, that indicates when the gate is open.

7 **SECTION 4.** 90.20 (5), (6), (7) and (8) of the statutes are created to read:

8 90.20 (5) INSPECTION CERTIFICATES. (a) No person may keep farm-raised deer
9 that are not white-tailed deer unless the deer are contained in a fenced area for
10 which the person holds a valid fence inspection certificate issued by the department
11 under this subsection.

12 (b) The department may not issue a fence inspection certificate for a fence that
13 is used to contain farm-raised deer that are not white-tailed deer unless the

1 department inspects the fence and determines that the fence satisfies all of the
2 following requirements:

3 1. The requirements under sub. (2).

4 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
5 kept in captivity on the deer farm, the requirements under s. 90.22 (2).

6 (c) Subject to s. 90.22 (2) (b) and (4), a fence inspection certificate issued under
7 this subsection is valid for 2 years from the date of issuance.

8 (d) Subject to s. 95.55 (1) (c), no person may apply for registration under s. 95.55
9 in order to keep farm-raised deer that are not white-tailed deer without being first
10 issued a fence inspection certificate under this subsection.

11 (e) Notwithstanding pars. (a) and (b), a person may keep farm-raised deer and
12 the department shall issue a fence inspection certificate under this subsection if all
13 of the following apply:

14 1. The requirements of s. 95.55 (1) (c) are satisfied.

15 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
16 kept in captivity on the deer farm, the requirements under s. 90.22 (2) are satisfied

17 **(6) FEES.** (a) The fee for a fence inspection certificate issued under sub. (5) is
18 \$50 for a fenced area that is fewer than 80 acres in size and \$100 for a fenced area
19 that is 80 acres or more in size.

20 (b) If a person expands a fenced area that is fewer than 80 acres in size during
21 the period that the fence inspection certificate issued under sub. (5) is valid so that
22 the fenced area is 80 acres or more in size, the person shall apply for a new fence
23 inspection certificate and pay an additional fee of \$50.

24 **(7) ENFORCEMENT AUTHORITY.** ^{person or} If a fence fails to comply with the requirements
25 under sub. (2) or s. 90.22 (2) or (3), the department shall issue an order directing the

1 person who is required to maintain the fence to bring the fence into compliance
2 within 10 days after the issuance of the order. If the person fails to comply with the
3 order within 10 days of its issuance, the department may revoke the applicable fence
4 inspection certificate issued under sub. (5).

5 (8) PENALTIES. (a) A court may suspend the fence inspection certificate issued
6 under sub. (5) of a person who violates this section, and may issue an order
7 prohibiting the person from being issued another fence inspection certificate, for a
8 period of up to 3 years. *totaling not more than* *combined*

9 (b) A court may suspend the registration issued under s. 95.55 of a person who
10 violates this section, and may issue an order prohibiting the person from being
11 granted another registration, for a *combined* period of up to 3 years.

12 SECTION 5. 90.21 (2) (b) of the statutes is amended to read:

13 90.21 (2) (b) The department may not issue a fence inspection certificate under
14 this section for a fence that is used to contain farm-raised deer that are white-tailed
15 deer unless the department inspects the fence and determines that the fence meets
16 the requirements established by the department by rule under sub. (6).

17 SECTION 6. 90.21 (3) (c) of the statutes is amended to read:

18 90.21 (3) (c) *Subject to* §s. 90.22 (2) (b) and (4), a fence inspection certificate
19 issued under par. (a) or (b) shall be valid for 2 years from the date of issuance until
20 the 10th ~~December 31~~ following the date of issuance.

21 SECTION 7. 90.21 (6) of the statutes is amended to read:

22 90.21 (6) RULES. The Subject to sub. (6m), the department shall promulgate
23 rules to establish requirements for fences for which fence inspection certificates are
24 issued under this section. If the rules include provisions authorizing the placement

1 of fences in navigable bodies of water, s. 30.12 does not apply to fences placed in
2 compliance with these rules.

3 **SECTION 8.** 90.21 (6m) of the statutes is created to read:

4 **90.21 (6m) FENCE SPECIFICATIONS.** The rules promulgated under sub. (6) shall
5 require any person who keeps farm-raised deer that are white-tailed deer to keep
6 those deer enclosed by a fence that satisfies all of the following requirements:

7 (a) Each gate in the fence has an electronic monitoring system, or other system
8 approved by the department by rule, that indicates when the gate is open.

9 (b) If chronic wasting disease has been confirmed in a farm-raised deer that
10 was kept in captivity on the deer farm, the requirements under s. 90.22 (2).

11 **SECTION 9.** 90.21 (7) of the statutes is amended to read:

12 **90.21 (7) ENFORCEMENT AUTHORITY.** If ^{person of} a fence fails to comply with the
13 requirements established ^{(2) or} under s. 90.22 (3) or by rule under sub. (6), the department
14 may shall issue an order directing the person who is required to maintain the fence
15 to bring the fence into compliance within 10 days after the issuance of the order. If
16 the person fails to comply with the order within 10 days of its issuance, the
17 department may revoke the applicable fence inspection certificate.

18 **SECTION 10.** 90.22 of the statutes is created to read:

19 **90.22 Fence requirements if chronic wasting disease confirmed at**
20 **deer farm. (1) DEFINITIONS.** In this section:

21 (a) "Department" means the department of natural resources.

22 (b) "Farm-raised deer" has the meaning given in s. 95.001 (1) (ag).

23 **(2) FENCE REQUIREMENTS.** (a) Any person who keeps farm-raised deer, within
24 30 days after chronic wasting disease is confirmed in a farm-raised deer that was

1 kept in captivity on the deer farm, shall keep the farm-raised deer enclosed by a
2 fence that is either of the following:

3 1. A double-perimeter fence, with each fence meeting the requirements
4 established under s. 90.20 (2), if the deer farm contains only farm-raised deer that
5 are not white-tailed deer, or the requirements established by the department by rule
6 under s. 90.21 (6), if the deer farm contains farm-raised deer that are white-tailed
7 deer. The 2 fences shall be at least 10 feet but not more than 16 feet apart.

8 2. An electric fence consisting of strands of strong, tightly stretched wire,
9 charged by an electric or battery fencer.

****NOTE: Would you like to specify the requirements for an "electric fence," such
as the number of strands, distance between strands, fence height, etc., or require an
agency to promulgate rules specifying requirements?

10 (b) If chronic wasting disease is confirmed in a farm-raised deer that is kept
11 in captivity on the deer farm, the deer farm must obtain a new fence inspection
12 certificate and pay the fence inspection fee, under s. 90.20, if the deer farm contains
13 only farm-raised deer that are not white-tailed deer, or s. 90.21, if the deer farm
14 contains farm-raised deer that are white-tailed deer, within 30 days of making a
15 significant ^{e material} change in the location of the deer farm's perimeter fence.

16 (3) MAINTENANCE AFTER DEPOPULATION. If a farm-raised deer has been removed
17 from a deer farm because chronic wasting disease has been confirmed on the deer
18 farm, the person who operates the deer farm or owns the land shall maintain the
19 fences enclosing the deer farm in compliance with the requirements established
20 under sub. (2) and s. 90.20 (2), if the deer farm contains only farm-raised deer that
21 are not white-tailed deer, or by the department by rule under s. 90.21 (6), if the deer
22 farm contains farm-raised deer that are white-tailed deer, until the department and

1 the department of agriculture, trade and consumer protection certify that the deer
2 farm has been free of chronic wasting disease prions for 5 years.

****NOTE: Would you like the draft to specify a definition for "being free of chronic
wasting disease prions" or require an agency to promulgate rules to specify a standard?

3 (4) INSPECTION CERTIFICATES. (a) If chronic wasting disease is confirmed in a
4 farm-raised deer that was kept in captivity on a deer farm at which chronic wasting
5 disease has not been confirmed before, the fence inspection certificate issued to the
6 deer farm under s. 90.20 (5) or 90.21 expires on the earlier of the following dates:

- 7 1. Two years after the date of issuance of the fence inspection certificate.
- 8 2. Two months after the date that chronic wasting is confirmed in a farm-raised
9 deer that is kept in captivity on the deer farm.

10 (b) Each fence inspection certificate issued to a deer farm after a fence
11 inspection certificate expires under par. (a) is valid for one year after the date of
12 issuance until the department and the department of agriculture, trade and
13 consumer protection certify that the deer farm has been free of chronic wasting
14 disease prions for 5 years.

****NOTE: Please advise if these provisions are inconsistent with your instruction
to require deer farm fences to be inspected every 12 months after chronic wasting disease
is detected in a deer raised at that deer farm.

15 SECTION 11. 95.55 (1) (c) (intro.) of the statutes is amended to read:

16 95.55 (1) (c) (intro.) ^{How} The Subject to s. 90.22 (2), the department shall register
17 a person to keep farm-raised deer in a fenced area that is located in this state and
18 another state without having the entire area in this state enclosed with a fence ^{only} if all
19 of the following apply:

20 SECTION 12. 169.38 (1) (intro.) of the statutes is amended to read:

21 169.38 (1) DEPARTMENTAL AUTHORITY. (intro.) For purposes of enforcing s. 90.21
22 and rules promulgated under that section and, ch. 29 and rules promulgated under

1 that chapter, s. 90.20 and rules promulgated under that section, and s. 90.22, with
2 respect to a person who keeps farm-raised deer that are white-tailed deer, and for
3 purposes of enforcing this chapter and ch. 29 and rules promulgated under this
4 chapter and ch. 29, with respect to a person who keeps farm-raised game birds or
5 wild animals under a license issued under s. 95.68, 95.69, or 95.71, a conservation
6 warden or representative of the department, upon presenting his or her credentials
7 to that person, may do any of the following:

8 **SECTION 13.** 169.38 (2) (d) of the statutes is amended to read:

9 169.38 (2) (d) At any time, if the inspection is limited to determining whether
10 a fence that is used to contain farm-raised deer that are white-tailed deer complies
11 with the requirements established by rule under s. 90.21 (6) or the requirements
12 established under s. 90.20 (2) or 90.22 (2) or (3).

13 **SECTION 14. Nonstatutory provisions.**

14 (1) The department of natural resources shall conduct a study concerning the
15 prevention of farm-raised deer from crossing through open gates in the fences
16 enclosing deer farms. The department of natural resources shall submit a report of
17 its findings under the study to the legislature in the manner provided under section
18 13.172 (2) of the statutes no later than the first day of the 13th month beginning after
19 the effective date of this subsection.

20 **SECTION 15. Initial applicability.**

21 (1) ^{Section 90.20 (5) of the statutes} This act first applies to applications for a registration under section 95.55
22 of the statutes that are received by the department of agriculture, trade and
23 consumer protection on the effective date of this subsection.

24 **SECTION 16. Effective date.**

**2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2277/P1ins2
KP:...

1 INS 7-19

2 **SECTION 1.** 95.55 (1) (c) 7. of the statutes is created to read:

3 95.55 (1) (c) 7. Chronic wasting disease has not been confirmed in a
4 farm-raised deer that was kept in captivity, at any time, in the fenced area.

5 END INS 7-19

6 INS D-NOTE

7 Additionally, this draft does not address an issue with transitioning from the
8 current fence inspection certificates, which are valid for approximately ten years, to
9 the fence inspection certificates under this draft, which are valid for two years. When
10 the bill takes effect, some white-tailed deer farms might have last been inspected
11 more than two years ago. Please let me know what deadline for having their fences
12 inspected should apply to those white-tailed deer farms.

13 END INS D-NOTE

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

LRB-2277/P2dn
KP:wlj

April 19, 2017

Representative Wachs:

Section 20.370 (1) (mu) provides an appropriation for certain DNR operations, including operations that are conducted under s. 90.21 related to fencing of farm-raised white-tailed deer. Additionally, s. 20.370 (3) (mu) appropriates funds for DNR to conduct law enforcement operations under s. 90.21. This draft gives DNR the duty of enforcing statutes related to fencing of non-white-tailed farm-raised deer, in s. 90.20, and gives DNR the duty of enforcing statutes related to additional fencing requirements for deer farms when chronic wasting disease is detected, under s. 90.22. Please let me know if you would like to include these activities in the DNR's appropriations under s. 20.370 (1) (mu) or (3) (mu) or both.

Thank you.

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INS
D-NOTE

J

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

LRB-2277/P2dn
KP:wlj

April 24, 2017

Representative Wachs:

Section 20.370 (1) (mu) provides an appropriation for certain DNR operations, including operations that are conducted under s. 90.21 related to fencing of farm-raised white-tailed deer. Additionally, s. 20.370 (3) (mu) appropriates funds for DNR to conduct law enforcement operations under s. 90.21. This draft gives DNR the duty of enforcing statutes related to fencing of non-white-tailed farm-raised deer, in s. 90.20, and gives DNR the duty of enforcing statutes related to additional fencing requirements for deer farms when chronic wasting disease is detected, under s. 90.22. Please let me know if you would like to include these activities in DNR's appropriations under s. 20.370 (1) (mu) or (3) (mu) or both.

Additionally, this draft does not address an issue with transitioning from the current fence inspection certificates, which are valid for approximately ten years, to the fence inspection certificates under this draft, which are valid for two years. When the bill takes effect, some white-tailed deer farms might have last been inspected more than two years ago. Please let me know what deadline for having their fences inspected should apply to those white-tailed deer farms.

Thank you.

Konrad Paczuski
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State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2277/P2 *2-13*
KP:wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT

*IN: 4/26/2017
OUT: 4/27/2017*

1 **AN ACT to renumber** 90.20 (1) (a); **to amend** 90.21 (2) (b), 90.21 (3) (c), 90.21 (6),
2 90.21 (7), 95.55 (1) (c) (intro.), 169.38 (1) (intro.) and 169.38 (2) (d); and **to create**
3 90.20 (1) (ag), 90.20 (2) (f), 90.20 (5), (6), (7) and (8), 90.21 (6m), 90.22 and 95.55
4 (1) (c) 7. of the statutes; **relating to:** fence requirements for deer farms and
5 granting rule-making authority. *and making an appropriation*

Analysis by the Legislative Reference Bureau

This bill subjects the fences that enclose deer farms to additional requirements, especially if chronic wasting disease (CWD) is confirmed in a farm-raised deer that is kept in captivity on the deer farm. Under the bill, "farm-raised deer" means any animal of the cervid family, which includes white-tailed deer, non-white-tailed deer, reindeer, elk, and moose, that is kept in captivity. The bill requires each deer farm to pay a fee for and hold a fence inspection certificate issued by the Department of Natural Resources after DNR inspects the fence enclosing the deer farm and determines that it meets certain requirements. The bill provides that a fence inspection certificate for a deer farm is valid for two years, except that a fence inspection certificate for a deer farm is valid for one year if CWD has been confirmed in a farm-raised deer kept in captivity on that deer farm. Current law does not require a fence inspection certificate for a deer farm unless the deer farm keeps at least one white-tailed deer. Under current law, the fence inspection certificates for deer farms keeping white-tailed deer are valid for approximately ten years.

Further, the bill requires deer farms to install an electronic monitoring system, or other system approved by DNR, on each gate in the perimeter fence enclosing a

requires that fences enclosing a deer farm meet certain specifications & but

deer farm. Additionally, under the bill, if CWD is confirmed in a farm-raised deer, the deer farm must install, within 30 days, either 1) a double-perimeter fence, with each layer of the fence meeting the mandatory specifications; or 2) an electric fence.

The bill requires that if the farm-raised deer kept on a deer farm have been removed because CWD is confirmed at that deer farm, the operator of the deer farm, or the landowner, must maintain the fences enclosing the deer farm until DNR and the Department of Agriculture, Trade and Consumer Protection certify that the deer farm has been free of CWD prions for five years. If a fence fails to meet the specifications under the bill, DNR must issue an order to the person who is required to maintain the fence to bring it into compliance within ten days. The bill grants DNR authority to inspect the fence enclosing deer farms containing non-white-tailed deer at any time. DNR has authority under current law to inspect the fences enclosing white-tailed deer farms at any time.

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

that meets requirements established by DNR by rule

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

INS 2-0 1

1 **SECTION 1.** 90.20 (1) (a) of the statutes is renumbered 90.20 (1) (ar).

2 **SECTION 2.** 90.20 (1) (ag) of the statutes is created to read:

3 90.20 (1) (ag) "Department" means the department of natural resources.

4 **SECTION 3.** 90.20 (2) (f) of the statutes is created to read:

5 90.20 (2) (f) Each gate in the fence has an electronic monitoring system, or other
6 system approved by the department by rule, that indicates when the gate is open.

7 **SECTION 4.** 90.20 (5), (6), (7) and (8) of the statutes are created to read:

8 90.20 (5) **INSPECTION CERTIFICATES.** (a) No person may keep farm-raised deer
9 that are not white-tailed deer unless the deer are contained in a fenced area for
10 which the person holds a valid fence inspection certificate issued by the department
11 under this subsection.

12 (b) The department may not issue a fence inspection certificate for a fence that
13 is used to contain farm-raised deer that are not white-tailed deer unless the

1 department inspects the fence and determines that the fence satisfies all of the
2 following requirements:

3 1. The requirements under sub. (2).

4 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
5 kept in captivity on the deer farm, the requirements under s. 90.22 (2).

6 (c) Subject to s. 90.22 (2) (b) and ~~(4)~~⁽⁵⁾, a fence inspection certificate issued under
7 this subsection is valid for 2 years from the date of issuance.

8 (d) Subject to s. 95.55 (1) (c), no person may apply for registration under s. 95.55
9 in order to keep farm-raised deer that are not white-tailed deer without being first
10 issued a fence inspection certificate under this subsection.

11 (e) Notwithstanding pars. (a) and (b), a person may keep farm-raised deer and
12 the department shall issue a fence inspection certificate under this subsection if all
13 of the following apply:

14 1. The requirements of s. 95.55 (1) (c) are satisfied.

15 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
16 kept in captivity on the deer farm, the requirements under s. 90.22 (2) are satisfied.

17 **(6) FEES.** (a) The fee for a fence inspection certificate issued under sub. (5) is
18 \$50 for a fenced area that is fewer than 80 acres in size and \$100 for a fenced area
19 that is 80 acres or more in size.

20 (b) If a person expands a fenced area that is fewer than 80 acres in size during
21 the period that the fence inspection certificate issued under sub. (5) is valid so that
22 the fenced area is 80 acres or more in size, the person shall apply for a new fence
23 inspection certificate and pay an additional fee of \$50.

24 **(7) ENFORCEMENT AUTHORITY.** If a person or fence fails to comply with the
25 requirements under sub. (2) or s. 90.22 (2) or (3), the department shall issue an order

1 directing the person who is required to maintain the fence to bring the fence into
2 compliance within 10 days after the issuance of the order. If the person fails to
3 comply with the order within 10 days of its issuance, the department may revoke the
4 applicable fence inspection certificate issued under sub. (5).

5 **(8) PENALTIES.** (a) A court may suspend the fence inspection certificate issued
6 under sub. (5) of a person who violates this section, and may issue an order
7 prohibiting the person from being issued another fence inspection certificate, for a
8 combined period totaling not more than 3 years.

9 (b) A court may suspend the registration issued under s. 95.55 of a person who
10 violates this section, and may issue an order prohibiting the person from being
11 granted another registration, for a combined period totaling not more than 3 years.

12 **SECTION 5.** 90.21 (2) (b) of the statutes is amended to read:

13 90.21 (2) (b) The department may not issue a fence inspection certificate under
14 this section for a fence that is used to contain farm-raised deer that are white-tailed
15 deer unless the department inspects the fence and determines that the fence meets
16 the requirements established by the department by rule under sub. (6).

17 **SECTION 6.** 90.21 (3) (c) of the statutes is amended to read:

18 90.21 (3) (c) ~~A Subject to s. 90.22 (2) (b) and (4),~~ ^{e. (5)} a fence inspection certificate
19 issued under par. (a) or (b) shall be valid for 2 years from the date of issuance ~~until~~
20 ~~the 10th December 31 following the date of issuance.~~

21 **SECTION 7.** 90.21 (6) of the statutes is amended to read:

22 90.21 (6) **RULES.** The Subject to sub. (6m), the department shall promulgate
23 rules to establish requirements for fences for which fence inspection certificates are
24 issued under this section. If the rules include provisions authorizing the placement

1 of fences in navigable bodies of water, s. 30.12 does not apply to fences placed in
2 compliance with these rules.

3 **SECTION 8.** 90.21 (6m) of the statutes is created to read:

4 **90.21 (6m) FENCE SPECIFICATIONS.** The rules promulgated under sub. (6) shall
5 require any person who keeps farm-raised deer that are white-tailed deer to keep
6 those deer enclosed by a fence that satisfies all of the following requirements:

7 (a) Each gate in the fence has an electronic monitoring system, or other system
8 approved by the department by rule, that indicates when the gate is open.

9 (b) If chronic wasting disease has been confirmed in a farm-raised deer that
10 was kept in captivity on the deer farm, the requirements under s. 90.22 (2).

11 **SECTION 9.** 90.21 (7) of the statutes is amended to read:

12 **90.21 (7) ENFORCEMENT AUTHORITY.** If a person or fence fails to comply with the
13 requirements established under s. 90.22 (2) or (3) or by rule under sub. (6), the
14 department may shall issue an order directing the person who is required to
15 maintain the fence to bring the fence into compliance within 10 days after the
16 issuance of the order. If the person fails to comply with the order within 10 days of
17 its issuance, the department may revoke the applicable fence inspection certificate.

18 **SECTION 10.** 90.22 of the statutes is created to read:

19 **90.22 Fence requirements if chronic wasting disease confirmed at**
20 **deer farm. (1) DEFINITIONS.** In this section:

21 (a) "Department" means the department of natural resources.

22 (b) "Farm-raised deer" has the meaning given in s. 95.001 (1) (ag).

23 **(2) FENCE REQUIREMENTS.** (a) Any person who keeps farm-raised deer, within
24 30 days after chronic wasting disease is confirmed in a farm-raised deer that was

1 kept in captivity on the deer farm, shall keep the farm-raised deer enclosed by a
2 fence that is either of the following:

3 1. A double-perimeter fence, with each fence meeting the requirements
4 established under s. 90.20 (2), if the deer farm contains only farm-raised deer that
5 are not white-tailed deer, or the requirements established by the department by rule
6 under s. 90.21 (6), if the deer farm contains farm-raised deer that are white-tailed
7 deer. The 2 fences shall be at least 10 feet but not more than 16 feet apart.

8 2. An electric fence consisting of strands of strong, tightly stretched wire,
9 *and that complies with all requirements established by rule under sub. (4) (b)*
charged by an electric or battery fencer.

****NOTE: Would you like to specify the requirements for an "electric fence," such
as the number of strands, distance between strands, fence height, etc., or require an
agency to promulgate rules specifying requirements?

10 (b) If chronic wasting disease is confirmed in a farm-raised deer that is kept
11 in captivity on the deer farm, the deer farm must obtain a new fence inspection
12 certificate and pay the fence inspection fee, under s. 90.20, if the deer farm contains
13 only farm-raised deer that are not white-tailed deer, or s. 90.21, if the deer farm
14 contains farm-raised deer that are white-tailed deer, within 30 days of making a
15 material change in the location of the deer farm's perimeter fence.

16 (3) MAINTENANCE AFTER DEPOPULATION. If a farm-raised deer has been removed
17 from a deer farm because chronic wasting disease has been confirmed on the deer
18 farm, the person who operates the deer farm or owns the land shall maintain the
19 fences enclosing the deer farm in compliance with the requirements established
20 under sub. (2) and s. 90.20 (2), if the deer farm contains only farm-raised deer that
21 are not white-tailed deer, or by the department by rule under s. 90.21 (6), if the deer
22 farm contains farm-raised deer that are white-tailed deer, until the department and

1 the department of agriculture, trade and consumer protection certify that the deer
2 farm has been free of chronic wasting disease prions for 5 years.

INS 7-2 ↗

****NOTE: Would you like the draft to specify a definition for "being free of chronic wasting disease prions" or require an agency to promulgate rules to specify a standard?

3 (5) ~~(4)~~ INSPECTION CERTIFICATES. (a) If chronic wasting disease is confirmed in a
4 farm-raised deer that was kept in captivity on a deer farm at which chronic wasting
5 disease has not been confirmed before, the fence inspection certificate issued to the
6 deer farm under s. 90.20 (5) or 90.21 expires on the earlier of the following dates:

- 7 1. Two years after the date of issuance of the fence inspection certificate.
- 8 2. Two months after the date that chronic wasting is confirmed in a farm-raised
- 9 deer that is kept in captivity on the deer farm.

10 (b) Each fence inspection certificate issued to a deer farm after a fence
11 inspection certificate expires under par. (a) is valid for one year after the date of
12 issuance until the department and the department of agriculture, trade and
13 consumer protection certify that the deer farm has been free of chronic wasting
14 disease prions for 5 years.

****NOTE: Please advise if these provisions are inconsistent with your instruction to require deer farm fences to be inspected every 12 months after chronic wasting disease is detected in a deer raised at that deer farm.

15 SECTION 11. 95.55 (1) (c) (intro.) of the statutes is amended to read:

16 95.55 (1) (c) (intro.) The department shall register a person to keep farm-raised
17 deer in a fenced area that is located in this state and another state without having
18 the entire area in this state enclosed with a fence only if all of the following apply:

19 SECTION 12. 95.55 (1) (c) 7. of the statutes is created to read:

20 95.55 (1) (c) 7. Chronic wasting disease has not been confirmed in a
21 farm-raised deer that was kept in captivity, at any time, in the fenced area.

22 SECTION 13. 169.38 (1) (intro.) of the statutes is amended to read:

1 169.38 (1) DEPARTMENTAL AUTHORITY. (intro.) For purposes of enforcing s. 90.21
2 and rules promulgated under that section and, ch. 29 and rules promulgated under
3 that chapter, s. 90.20 and rules promulgated under that section, and s. 90.22, with
4 respect to a person who keeps farm-raised deer ~~that are white-tailed deer~~, and for
5 purposes of enforcing this chapter and ch. 29 and rules promulgated under this
6 chapter and ch. 29, with respect to a person who keeps farm-raised game birds or
7 wild animals under a license issued under s. 95.68, 95.69, or 95.71, a conservation
8 warden or representative of the department, upon presenting his or her credentials
9 to that person, may do any of the following:

10 **SECTION 14.** 169.38 (2) (d) of the statutes is amended to read:

11 169.38 (2) (d) At any time, if the inspection is limited to determining whether
12 a fence that is used to contain farm-raised deer ~~that are white-tailed deer~~ complies
13 with the requirements established by rule under s. 90.21 (6) or the requirements
14 established under s. 90.20 (2) or 90.22 (2) or (3).

15 **SECTION 15. Nonstatutory provisions.**

16 (1) The department of natural resources shall conduct a study concerning the
17 prevention of farm-raised deer from crossing through open gates in the fences
18 enclosing deer farms. The department of natural resources shall submit a report of
19 its findings under the study to the legislature in the manner provided under section
20 13.172 (2) of the statutes no later than the first day of the 13th month beginning after
21 the effective date of this subsection.

22 **SECTION 16. Initial applicability.**

23 (1) ^{The treatment of} Section 90.20 (5) of the statutes first applies to applications for a
24 registration under section 95.55 of the statutes that are received by the department
25 of agriculture, trade and consumer protection on the effective date of this subsection.

2017-2018 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2277/P2ins
KP:...

1 INS 2-0

2 **SECTION 1.** 20.370 (1) (mu) of the statutes is amended to read:

3 20.370 (1) (mu) *General program operations — state funds.* The amounts in

4 the schedule for general program operations that do not relate to the management

5 and protection of the state’s fishery resources and that are conducted under ss. 23.09

6 to 23.11, 27.01, 30.203, 30.277, and ~~90.21~~ 90.20 to 90.22, and chs. 29 and 169, for

7 activities conducted under the ecological inventory and monitoring program of the

8 endangered resources program, for the aquatic and terrestrial resources inventory

9 under s. 23.09 (2) (km), and for payments of \$53,700 in each fiscal year, to be credited

10 to the appropriation account under s. 20.285 (1) (k), to the University of Wisconsin

11 System for outdoor skills training under s. 29.598.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; 2013 a. 1; 2013 a. 20 ss. 214, 217, 218, 219, 220, 221, 276 to 289j; 2013 a. 72, 80; 2013 a. 165 s. 114; 2015 a. 31, 55, 89, 170; 2015 a. 197 s. 51; 2015 a. 250, 260, 358; s. 35.17 correction in (1) (j)b).

12 **SECTION 2.** 20.370 (3) (mu) of the statutes is amended to read:

13 20.370 (3) (mu) *General program operations — state funds.* The amounts in

14 the schedule for law enforcement operations under ss. 23.09 to 23.11, ~~90.21~~ 90.20 to

15 90.22, and 323.12 (2) (c) and chs. 29, 30, and 169 and for review of environmental

16 impact requirements under ss. 1.11 and 23.40.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; 2013 a. 1; 2013 a. 20 ss. 214, 217, 218, 219, 220, 221, 276 to 289j; 2013 a. 72, 80; 2013 a. 165 s. 114; 2015 a. 31, 55, 89, 170; 2015 a. 197 s. 51; 2015 a. 250, 260, 358; s. 35.17 correction in (1) (j)b).

17 **END INS 2-0**

18 INS 7-2

1 (4) RULES. (a) The department shall promulgate rules specifying a standard
2 for determining that a deer farm is free of chronic wasting disease prions.

3 (b) The department shall promulgate rules stating the specifications that an
4 electric fence required under sub. (2) (a) shall satisfy.

5 END INS 7-2

6 INS 8-14

7 **SECTION 3. Nonstatutory provisions.**

8 (1) EXISTING FENCE INSPECTION CERTIFICATES. Notwithstanding section 90.21 (3)
9 (c) of the statutes, a fence inspection certificate that was issued more than ^{e2}two years
10 before the effective date of this subsection and that is valid on the ^eon the effective
11 date of this subsection expires one year after the effective date of this subsection.

12 (2) STUDY OF DEER FARM GATES. The department of natural resources shall
13 conduct a study concerning the prevention of farm-raised deer from crossing
14 through open gates in the fences enclosing deer farms. The department of natural
15 resources shall submit a report of its findings under the study to the legislature in
16 the manner provided under section 13.172 (2) of the statutes no later than the first
17 day of the 13th month beginning after the effective date of this subsection.

18 END INS 8-14



Phone call from Rep. Wachs's office 4/25:

- add DNR's duties under s. 90.20 and 90.22 to the appropriations in ss. 20.370(1)(mv) and (3)(mv)
- allow deer farms with valid fence inspection certificates that were inspected last more than 2 years ago to have 1 year to get a fence inspection certificate
- DNR should be required to promulgate a rule stating the specifications of an electric fence
- DNR should be required to promulgate rules that specify a standard for determining that a deer farm is free of CWD prions

-KP



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2277/P3 *De 1*
KP:wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

IN: 4/28/2017
OUT: TODAY

1 **AN ACT** *to renumber* 90.20 (1) (a); *to amend* 20.370 (1) (mu), 20.370 (3) (mu),
2 90.21 (2) (b), 90.21 (3) (c), 90.21 (6), 90.21 (7), 95.55 (1) (c) (intro.), 169.38 (1)
3 (intro.) and 169.38 (2) (d); and *to create* 90.20 (1) (ag), 90.20 (2) (f), 90.20 (5),
4 (6), (7) and (8), 90.21 (6m), 90.22 and 95.55 (1) (c) 7. of the statutes; **relating**
5 **to:** fence requirements for deer farms, granting rule-making authority, and
6 making appropriations.

Analysis by the Legislative Reference Bureau

This bill subjects the fences that enclose deer farms to additional requirements, especially if chronic wasting disease (CWD) is confirmed in a farm-raised deer that is kept in captivity on the deer farm. Under the bill, "farm-raised deer" means any animal of the cervid family, which includes white-tailed deer, non-white-tailed deer, reindeer, elk, and moose, that is kept in captivity. The bill requires each deer farm to pay a fee for and hold a fence inspection certificate issued by the Department of Natural Resources after DNR inspects the fence enclosing the deer farm and determines that it meets certain requirements. The bill provides that a fence inspection certificate for a deer farm is valid for two years, except that a fence inspection certificate for a deer farm is valid for one year if CWD has been confirmed in a farm-raised deer kept in captivity on that deer farm. Current law requires that fences enclosing a deer farm meet certain specifications but does not require a fence inspection certificate for a deer farm unless the deer farm keeps at least one

white-tailed deer. Under current law, the fence inspection certificates for deer farms keeping white-tailed deer are valid for approximately ten years.

Further, the bill requires deer farms to install an electronic monitoring system, or other system approved by DNR, on each gate in the perimeter fence enclosing a deer farm. Additionally, under the bill, if CWD is confirmed in a farm-raised deer, the deer farm must install, within 30 days, either 1) a double-perimeter fence, with each layer of the fence meeting the mandatory specifications; or 2) an electric fence that meets requirements established by DNR by rule.

The bill requires that if the farm-raised deer kept on a deer farm have been removed because CWD is confirmed at that deer farm, the operator of the deer farm, or the landowner, must maintain the fences enclosing the deer farm until DNR and the Department of Agriculture, Trade and Consumer Protection certify that the deer farm has been free of CWD prions for five years. If a fence fails to meet the specifications under the bill, DNR must issue an order to the person who is required to maintain the fence to bring it into compliance within ten days. The bill grants DNR authority to inspect the fence enclosing deer farms containing non-white-tailed deer at any time. DNR has authority under current law to inspect the fences enclosing white-tailed deer farms at any time.

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:

1 **SECTION 1.** 20.370 (1) (mu) of the statutes is amended to read:

2 20.370 (1) (mu) *General program operations — state funds.* The amounts in
3 the schedule for general program operations that do not relate to the management
4 and protection of the state's fishery resources and that are conducted under ss. 23.09
5 to 23.11, 27.01, 30.203, 30.277, and ~~90.21~~ 90.20 to 90.22, and chs. 29 and 169, for
6 activities conducted under the ecological inventory and monitoring program of the
7 endangered resources program, for the aquatic and terrestrial resources inventory
8 under s. 23.09 (2) (km), and for payments of \$53,700 in each fiscal year, to be credited
9 to the appropriation account under s. 20.285 (1) (k), to the University of Wisconsin
10 System for outdoor skills training under s. 29.598.

11 **SECTION 2.** 20.370 (3) (mu) of the statutes is amended to read:

1 20.370 (3) (mu) *General program operations — state funds*. The amounts in
2 the schedule for law enforcement operations under ss. 23.09 to 23.11, ~~90.21~~ 90.20 to
3 90.22, and 323.12 (2) (c) and chs. 29, 30, and 169 and for review of environmental
4 impact requirements under ss. 1.11 and 23.40.

5 **SECTION 3.** 90.20 (1) (a) of the statutes is renumbered 90.20 (1) (ar).

6 **SECTION 4.** 90.20 (1) (ag) of the statutes is created to read:

7 90.20 (1) (ag) “Department” means the department of natural resources.

8 **SECTION 5.** 90.20 (2) (f) of the statutes is created to read:

9 90.20 (2) (f) Each gate in the fence has an electronic monitoring system, or other
10 system approved by the department by rule, that indicates when the gate is open.

11 **SECTION 6.** 90.20 (5), (6), (7) and (8) of the statutes are created to read:

12 90.20 (5) INSPECTION CERTIFICATES. (a) No person may keep farm-raised deer
13 that are not white-tailed deer unless the deer are contained in a fenced area for
14 which the person holds a valid fence inspection certificate issued by the department
15 under this subsection.

16 (b) The department may not issue a fence inspection certificate for a fence that
17 is used to contain farm-raised deer that are not white-tailed deer unless the
18 department inspects the fence and determines that the fence satisfies all of the
19 following requirements:

20 1. The requirements under sub. (2).

21 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
22 kept in captivity on the deer farm, the requirements under s. 90.22 (2).

23 (c) Subject to s. 90.22 (2) (b) and (5), a fence inspection certificate issued under
24 this subsection is valid for 2 years from the date of issuance.

1 (d) Subject to s. 95.55 (1) (c), no person may apply for registration under s. 95.55
2 in order to keep farm-raised deer that are not white-tailed deer without being first
3 issued a fence inspection certificate under this subsection.

4 (e) Notwithstanding pars. (a) and (b), a person may keep farm-raised deer and
5 the department shall issue a fence inspection certificate under this subsection if all
6 of the following apply:

7 1. The requirements of s. 95.55 (1) (c) are satisfied.

8 2. If chronic wasting disease has been confirmed in a farm-raised deer that was
9 kept in captivity on the deer farm, the requirements under s. 90.22 (2) are satisfied.

10 **(6) FEES.** (a) The fee for a fence inspection certificate issued under sub. (5) is
11 \$50 for a fenced area that is fewer than 80 acres in size and \$100 for a fenced area
12 that is 80 acres or more in size.

13 (b) If a person expands a fenced area that is fewer than 80 acres in size during
14 the period that the fence inspection certificate issued under sub. (5) is valid so that
15 the fenced area is 80 acres or more in size, the person shall apply for a new fence
16 inspection certificate and pay an additional fee of \$50.

17 **(7) ENFORCEMENT AUTHORITY.** If a person or fence fails to comply with the
18 requirements under sub. (2) or s. 90.22 (2) or (3), the department shall issue an order
19 directing the person who is required to maintain the fence to bring the fence into
20 compliance within 10 days after the issuance of the order. If the person fails to
21 comply with the order within 10 days of its issuance, the department may revoke the
22 applicable fence inspection certificate issued under sub. (5).

23 **(8) PENALTIES.** (a) A court may suspend the fence inspection certificate issued
24 under sub. (5) of a person who violates this section, and may issue an order

1 prohibiting the person from being issued another fence inspection certificate, for a
2 combined period totaling not more than 3 years.

3 (b) A court may suspend the registration issued under s. 95.55 of a person who
4 violates this section, and may issue an order prohibiting the person from being
5 granted another registration, for a combined period totaling not more than 3 years.

6 **SECTION 7.** 90.21 (2) (b) of the statutes is amended to read:

7 90.21 (2) (b) The department may not issue a fence inspection certificate under
8 this section for a fence that is used to contain farm-raised deer that are white-tailed
9 deer unless the department inspects the fence and determines that the fence meets
10 the requirements established by the department by rule under sub. (6).

11 **SECTION 8.** 90.21 (3) (c) of the statutes is amended to read:

12 90.21 (3) (c) ~~A~~ Subject to s. 90.22 (2) (b) and (5), a fence inspection certificate
13 issued under par. (a) or (b) shall be valid for 2 years from the date of issuance until
14 the 10th December 31 following the date of issuance.

15 **SECTION 9.** 90.21 (6) of the statutes is amended to read:

16 90.21 (6) RULES. The Subject to sub. (6m), the department shall promulgate
17 rules to establish requirements for fences for which fence inspection certificates are
18 issued under this section. If the rules include provisions authorizing the placement
19 of fences in navigable bodies of water, s. 30.12 does not apply to fences placed in
20 compliance with these rules.

21 **SECTION 10.** 90.21 (6m) of the statutes is created to read:

22 90.21 (6m) FENCE SPECIFICATIONS. The rules promulgated under sub. (6) shall
23 require any person who keeps farm-raised deer that are white-tailed deer to keep
24 those deer enclosed by a fence that satisfies all of the following requirements:

1 (a) Each gate in the fence has an electronic monitoring system, or other system
2 approved by the department by rule, that indicates when the gate is open.

3 (b) If chronic wasting disease has been confirmed in a farm-raised deer that
4 was kept in captivity on the deer farm, the requirements under s. 90.22 (2).

5 **SECTION 11.** 90.21 (7) of the statutes is amended to read:

6 **90.21 (7) ENFORCEMENT AUTHORITY.** If a person or fence fails to comply with the
7 requirements established under s. 90.22 (2) or (3) or by rule under sub. (6), the
8 department ~~may~~ shall issue an order directing the person who is required to
9 maintain the fence to bring the fence into compliance within 10 days after the
10 issuance of the order. If the person fails to comply with the order within 10 days of
11 its issuance, the department may revoke the applicable fence inspection certificate.

12 **SECTION 12.** 90.22 of the statutes is created to read:

13 **90.22 Fence requirements if chronic wasting disease confirmed at**
14 **deer farm. (1) DEFINITIONS.** In this section:

15 (a) "Department" means the department of natural resources.

16 (b) "Farm-raised deer" has the meaning given in s. 95.001 (1) (ag).

17 **(2) FENCE REQUIREMENTS.** (a) Any person who keeps farm-raised deer, within
18 30 days after chronic wasting disease is confirmed in a farm-raised deer that was
19 kept in captivity on the deer farm, shall keep the farm-raised deer enclosed by a
20 fence that is either of the following:

21 1. A double-perimeter fence, with each fence meeting the requirements
22 established under s. 90.20 (2), if the deer farm contains only farm-raised deer that
23 are not white-tailed deer, or the requirements established by the department by rule
24 under s. 90.21 (6), if the deer farm contains farm-raised deer that are white-tailed
25 deer. The 2 fences shall be at least 10 feet but not more than 16 feet apart.

1 2. An electric fence consisting of strands of strong, tightly stretched wire,
2 charged by an electric or battery fencer and that complies with all requirements
3 established by rule under sub (4) (b).

4 (b) If chronic wasting disease is confirmed in a farm-raised deer that is kept
5 in captivity on the deer farm, the deer farm must obtain a new fence inspection
6 certificate and pay the fence inspection fee, under s. 90.20, if the deer farm contains
7 only farm-raised deer that are not white-tailed deer, or s. 90.21, if the deer farm
8 contains farm-raised deer that are white-tailed deer, within 30 days of making a
9 material change in the location of the deer farm's perimeter fence.

10 **(3) MAINTENANCE AFTER DEPOPULATION.** If a farm-raised deer has been removed
11 from a deer farm because chronic wasting disease has been confirmed on the deer
12 farm, the person who operates the deer farm or owns the land shall maintain the
13 fences enclosing the deer farm in compliance with the requirements established
14 under sub. (2) and s. 90.20 (2), if the deer farm contains only farm-raised deer that
15 are not white-tailed deer, or by the department by rule under s. 90.21 (6), if the deer
16 farm contains farm-raised deer that are white-tailed deer, until the department and
17 the department of agriculture, trade and consumer protection certify that the deer
18 farm has been free of chronic wasting disease prions for 5 years.

19 **(4) RULES.** (a) The department shall promulgate rules specifying a standard
20 for determining that a deer farm is free of chronic wasting disease prions.

21 (b) The department shall promulgate rules stating the specifications that an
22 electric fence required under sub. (2) (a) shall satisfy.

23 **(5) INSPECTION CERTIFICATES.** (a) If chronic wasting disease is confirmed in a
24 farm-raised deer that was kept in captivity on a deer farm at which chronic wasting

1 disease has not been confirmed before, the fence inspection certificate issued to the
2 deer farm under s. 90.20 (5) or 90.21 expires on the earlier of the following dates:

3 1. Two years after the date of issuance of the fence inspection certificate.

4 2. Two months after the date that chronic wasting is confirmed in a farm-raised
5 deer that is kept in captivity on the deer farm.

6 (b) Each fence inspection certificate issued to a deer farm after a fence
7 inspection certificate expires under par. (a) is valid for one year after the date of
8 issuance until the department and the department of agriculture, trade and
9 consumer protection certify that the deer farm has been free of chronic wasting
10 disease prions for 5 years.

11 **SECTION 13.** 95.55 (1) (c) (intro.) of the statutes is amended to read:

12 95.55 (1) (c) (intro.) The department shall register a person to keep farm-raised
13 deer in a fenced area that is located in this state and another state without having
14 the entire area in this state enclosed with a fence only if all of the following apply:

15 **SECTION 14.** 95.55 (1) (c) 7. of the statutes is created to read:

16 95.55 (1) (c) 7. Chronic wasting disease has not been confirmed in a
17 farm-raised deer that was kept in captivity, at any time, in the fenced area.

18 **SECTION 15.** 169.38 (1) (intro.) of the statutes is amended to read:

19 169.38 (1) DEPARTMENTAL AUTHORITY. (intro.) For purposes of enforcing s. 90.21
20 and rules promulgated under that section and, ch. 29 and rules promulgated under
21 that chapter, s. 90.20 and rules promulgated under that section, and s. 90.22, with
22 respect to a person who keeps farm-raised deer ~~that are white-tailed deer~~, and for
23 purposes of enforcing this chapter and ch. 29 and rules promulgated under this
24 chapter and ch. 29, with respect to a person who keeps farm-raised game birds or
25 wild animals under a license issued under s. 95.68, 95.69, or 95.71, a conservation

1 warden or representative of the department, upon presenting his or her credentials
2 to that person, may do any of the following:

3 **SECTION 16.** 169.38 (2) (d) of the statutes is amended to read:

4 169.38 (2) (d) At any time, if the inspection is limited to determining whether
5 a fence that is used to contain farm-raised deer ~~that are white-tailed deer~~ complies
6 with the requirements established by rule under s. 90.21 (6) or the requirements
7 established under s. 90.20 (2) or 90.22 (2) or (3).

8 **SECTION 17. Nonstatutory provisions.**

9 (1) EXISTING FENCE INSPECTION CERTIFICATES. Notwithstanding section 90.21 (3)
10 (c) of the statutes, a fence inspection certificate that was issued more than 2 years
11 before the effective date of this subsection and that is valid on the effective date of
12 this subsection expires one year after the effective date of this subsection.

13 (2) STUDY OF DEER FARM GATES. The department of natural resources shall
14 conduct a study concerning the prevention of farm-raised deer from crossing
15 through open gates in the fences enclosing deer farms. The department of natural
16 resources shall submit a report of its findings under the study to the legislature in
17 the manner provided under section 13.172 (2) of the statutes no later than the first
18 day of the 13th month beginning after the effective date of this subsection.

19 **SECTION 18. Initial applicability.**

20 (1) The treatment of section 90.20 (5) of the statutes first applies to applications
21 for a registration under section 95.55 of the statutes that are received by the
22 department of agriculture, trade and consumer protection on the effective date of this
23 subsection.

24 **SECTION 19. Effective date.**

Milford, Renae

From: Meyer, Bob
Sent: Friday, April 28, 2017 11:34 AM
To: LRB.Legal
Subject: Draft Review: LRB -2277/1

Please Jacket LRB -2277/1 for the ASSEMBLY.