

1981 Senate Bill 123

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CHAPTER 246 , Laws of 1981

AN ACT to repeal 29.582; to amend 29.17 (1) and (3), 31.14 (4) and 31.185 (1) and (2); and to create 710.11 of the statutes, relating to scientific collectors permits, to trespass on fox or mink farms and to transfer of the ownership of land on which a dam exists (suggested as remedial legislation by the department of natural resources).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of natural resources, and introduced by the law revision committee under s. 13.83 (1) (c) 4 of the statutes. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes remedial changes in the statutes, and that these changes are desirable to maintain the accuracy and usefulness of the statutes.

SECTION 1. 29.17 (1) and (3) of the statutes are amended to read:

29.17 (1) The department may issue scientific collectors permits to qualified natural persons as provided in this section. ~~Such~~ This permit authorizes the permittee to collect or salvage for scientific purposes only, the eggs, nest and wild animals specified in the permit subject to the conditions and limitations specified in the permit and the rules of the department. The permittee may use the specimens for the scientific purposes collected or salvaged and may transport them or cause them to be transported by common carrier. Possession of ~~such~~ these specimens shall not be transferred to any other person, except ~~such~~ these specimens may be exchanged for other specimens for scientific purposes.

(3) Upon receipt of ~~such~~ an application under this section the department shall investigate the ~~same~~ matter. ~~When~~ If the department is satisfied that the applicant is engaged in a bona fide ~~research~~ program leading to increased, useful scientific knowledge ~~the department~~, it may issue a scientific collectors permit to the applicant. ~~Such~~ This permit shall state the name and address of the permittee, the date of issue, the purposes for which it is issued, the type, species and number of specimens authorized to be collected or salvaged, the area and period of time in which the specimens may be collected or salvaged, the place the specimens shall be kept and ~~such~~ other conditions and limitations as the department deems reasonable. Each ~~such~~ permit ~~shall expire~~ expires on December 31 following the date of issue and ~~shall~~ is not be transferable.

NOTE: The scientific collectors permit currently does not allow salvage of dead animals such as road kills by a person with a legitimate interest in using the carcass for educational work. There is currently no statutory provision for such use. This bill amends section 29.17 of the statutes to allow those with a legitimate scientific or educational interest to salvage dead animals. Because of the requirement of use only for scientific purposes, this provision applies to individuals who are associated with nature centers, museums or schools or who can otherwise show a legitimate scientific purpose. This provision does not apply to casual collectors.

SECTION 2. 29.582 of the statutes is repealed.

NOTE: Section 29.582 of the statutes is a specific law prohibiting trespass on fox or mink farms, and providing in subsection (1) a statement that farm-raised fox and mink are domestic animals. There is no need for section 29.582 of the statutes because the owner of any land is covered under the criminal trespass sections of the statutes that apply to any landowner. In addition, section 29.582 (1) of the statutes is redundant because it repeats language from section 29.579 of the statutes, which makes it clear that all fur farm operators are to be treated as farmers under the law, and hence their animals would be considered domestic as are all farm animals.

SECTION 3. 31.14 (4) of the statutes is amended to read:

31.14 (4) No person shall may assume ownership of ~~any~~ a dam after October 21, 1961, or the ownership of that specific piece of land on which a dam is physically located after the effective date of this act (1981), without first complying with sub. (2) or (3). ~~Every~~ The transfer of the ownership of a dam or the ownership of a specific piece of land on which a dam is physically located made without ~~so~~ complying with sub. (2) or (3) is void unless a permit to abandon the dam ~~has been~~ was granted under s. 31.185 or unless the transfer occurred by operation of law. Every person who accepts ownership by operation of law is subject to this chapter.

SECTION 4. 31.185 (1) and (2) of the statutes are amended to read:

31.185 (1) No owner of any dam shall may abandon or remove or alter ~~of the dam~~ without first obtaining a permit from the department. No person may transfer ownership of such a dam or the ownership of the specific piece of land on which a dam is physically located without first obtaining a permit ~~therefor~~ from the department.

(2) An application for a permit to abandon, remove, or alter a dam or an application for a permit to transfer ownership of a dam or the ownership of a specific piece of land on which a dam is physically located shall be made to the department upon forms prescribed by it and shall contain the owner's name and address, a brief description of the dam and its location, and ~~such~~ other information as the department requires for the purpose of enabling it to act on the application.

NOTE: Sections 31.14 (4) and 31.185 (1) and (2) of the statutes are intended to ensure accountability and financial responsibility for the ownership, operation and maintenance of dams. A recent Sawyer county circuit court case, *State of Wisconsin v. Elmira Smith, et al*, and past experience with these sections indicates that they are insufficient to carry out their intended purpose.

The amendments to sections 31.14 (4) and 31.185 (1) and (2) of the statutes make it clear that ownership and responsibility for the dam cannot be separated from ownership of that specific piece of land on which the dam is physically located.

SECTION 5. 710.11 of the statutes is created to read:

710.11 Transfer of land where dam exists. A person may not accept the transfer of the ownership of a specific piece of land on which a dam is physically located unless the person complies with s. 31.14 (4).

NOTE: The creation of section 710.11 of the statutes should ensure that people working in the real estate profession, including brokers, attorneys and mortgage insurance companies, will be aware of the requirements of sections 31.14 (4) and 31.185 (1) and (2) of the statutes. This new awareness should enable the department of natural resources to maintain accurate records regarding dam ownership and to improve the administration of its dam safety program.
