

State of Wisconsin



May 2002 Special Session
Senate Bill 1

Date of enactment: **May 18, 2002**
Date of publication*: **May 20, 2002**

2001 WISCONSIN ACT 108

AN ACT *to repeal* 29.181 (3) and 29.559 (1r) (b); *to renumber* 29.307 and 29.559 (1r) (a); *to amend* 20.370 (5) (fq), 29.971 (7), 29.971 (11), 95.32 (1) and 167.31 (2) (d); and *to create* 20.370 (5) (fs), 20.370 (5) (fv), 29.063, 29.307 (2), 29.307 (3), 29.335, 95.23 (1m), 167.31 (1) (bg), 167.31 (1) (bn), 167.31 (1) (dm) and 167.31 (4) (bg) of the statutes; **relating to:** chronic wasting disease, hunting or shooting animals from aircraft, vehicles, and boats, feeding of wild animals for purposes other than hunting, shooting a firearm or arrow from or across a highway, shooting by certain persons from a tractor or implement of husbandry, requiring a lapse to the general fund, authorizing the extension of emergency rules, requiring the exercise of rule-making authority, and making appropriations.

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

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

				2001-02	2002-03
20.370	Natural resources, department of				
(5)	CONSERVATION AIDS				
(fs)	Chronic wasting disease management	SEG	A	-0-	2,000,100
(fv)	Chronic wasting disease management — supplemental funds	SEG	A	-0-	-0-

SECTION 2. 20.370 (5) (fq) of the statutes is amended to read:

20.370 (5) (fq) *Wildlife damage claims and abatement.* All moneys received under ss. 29.181 (3), 29.559 (1r) (b), and 29.563 (13) and not appropriated under ~~par. (fr), (fs), and (fv)~~ and sub. (1) (Ls) to provide state aid for the wildlife damage abatement program under s. 29.889 (5) (c) and the wildlife damage claim program under s. 29.889 (7) (d), for county administration costs under s. 29.889 (2) (d), and for payments under s. 29.89.

SECTION 3. 20.370 (5) (fs) of the statutes is created to read:

20.370 (5) (fs) *Chronic wasting disease management.* From the moneys received under ss. 29.181, 29.559 (1r), and 29.563 (13), the amounts in the schedule for the management of, and testing for, chronic wasting disease under s. 29.063 (1).

SECTION 4. 20.370 (5) (fv) of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES 1999-00: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2001 Wisconsin Act 108

20.370 (5) (fv) *Chronic wasting disease management — supplemental funds.* The amounts in the schedule for the management of, and testing for, chronic wasting disease under s. 29.063 (1).

SECTION 5. 29.063 of the statutes is created to read:

29.063 Management of chronic wasting disease.

(1) The department may manage, and provide funding to conduct testing for, chronic wasting disease in cervids.

(2) If the department designates an area as a chronic wasting disease eradication zone, the department shall provide notice and information to the public that is adequate to inform the public prior to the commencement of hunting that hunting of cervids to control the spread of the disease will occur in that zone.

SECTION 6. 29.181 (3) of the statutes is repealed.

SECTION 7. 29.307 of the statutes is renumbered 29.307 (1).

SECTION 8. 29.307 (2) of the statutes is created to read:

29.307 (2) (a) Notwithstanding sub. (1), a state employee or agent or a federal employee or agent acting within the scope of his or her employment or agency may hunt an animal in the wild with the aid of an aircraft if all of the following apply:

1. The employee or agent is authorized by the department to take the animal for the purpose of controlling the spread of disease in animals.

2. The employee or agent is hunting in an area designated by the department as a chronic wasting disease eradication zone.

3. The employee or agent is in compliance with all of the rules promulgated under par. (b).

(b) The department shall promulgate rules specifying the conditions under which aircraft may be used for surveillance of animals, for herding animals, and for shooting animals in order to control the spread of disease in animals. The rules may authorize shooting animals only if the department considers all other alternatives to shooting animals from aircraft and determines that the shooting is necessary in order to control the spread of disease in animals.

SECTION 9. 29.307 (3) of the statutes is created to read:

29.307 (3) Subsection (2) and the rules promulgated under sub. (2) do not apply after June 30, 2004.

SECTION 10. 29.335 of the statutes is created to read:

29.335 Feeding wild animals for nonhunting purposes. The department shall promulgate rules to regulate the recreational and supplemental feeding of wild animals for purposes other than hunting. The rules promulgated under this section do not apply after June 30, 2004.

SECTION 11. 29.559 (1r) (a) of the statutes is renumbered 29.559 (1r).

SECTION 12. 29.559 (1r) (b) of the statutes is repealed.

SECTION 13. 29.971 (7) of the statutes is amended to read:

29.971 (7) For the violation of s. 29.307 (1), by a fine of not more than \$1,000 for the first violation and not more than \$2,000 for subsequent violations or imprisonment for not more than 90 days, or both, and by a mandatory 3-year revocation of all hunting, fishing, and trapping approvals. An aircraft used in the violation is a public nuisance.

SECTION 14. 29.971 (11) of the statutes is amended to read:

29.971 (11) For hunting deer without the required approval, during the closed season, with the aid of artificial light or with the aid of an aircraft, except as provided in s. 29.307 (2), for the snaring of or setting snares for deer, or for the possession or control of a deer carcass in violation of s. 29.055 or 29.347, by a fine of not less than \$1,000 nor more than \$2,000 or by imprisonment for not more than 6 months or both. In addition, the court shall order the revocation of all approvals issued to the person under this chapter and shall prohibit the issuance of any new approval under this chapter to the person for 3 years.

SECTION 15. 95.23 (1m) of the statutes is created to read:

95.23 (1m) (a) The department may conduct surveillance testing to determine whether animals have chronic wasting disease, if the department has reason to believe that the animals have been exposed to chronic wasting disease.

(b) The department shall indemnify the owner of an animal that must be killed in order to conduct testing under par. (a), if funds are available from the appropriation under s. 20.115 (2) (m) or (8) (ks) to pay the indemnity, in an amount equal to two-thirds of the difference between the net salvage value and the appraised value of the animal but not more than \$1,500 for one animal.

SECTION 16. 95.32 (1) of the statutes is amended to read:

95.32 (1) The department shall determine the appraised value of an animal that is destroyed under s. 95.21 (4) (b), 95.23 (1m), 95.25, 95.26, 95.27 or 95.31 (3) or (4) if the animal's owner is eligible for an indemnity.

SECTION 16c. 167.31 (1) (bg) of the statutes is created to read:

167.31 (1) (bg) "Family member of the landowner" means a person who is related to the landowner as a parent, child, spouse, or sibling.

SECTION 16f. 167.31 (1) (bn) of the statutes is created to read:

167.31 (1) (bn) "Farm tractor" has the meaning given in s. 340.01 (16).

SECTION 16j. 167.31 (1) (dm) of the statutes is created to read:

167.31 (1) (dm) "Implement of husbandry" has the meaning given in s. 340.01 (24).

SECTION 17. 167.31 (2) (d) of the statutes, as affected by 2001 Wisconsin Act 8, is amended to read:

167.31 (2) (d) Except as provided in sub. (4) (a), (bg), (cg), (e), and (g), no person may discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within 50 feet of the center of a roadway.

SECTION 18. 167.31 (4) (bg) of the statutes is created to read:

167.31 (4) (bg) 1. Subsection (2) (a), (b), (c), and (d) does not apply to a state employee or agent, or to a federal employee or agent, who is acting within the scope of his or her employment or agency, who is authorized by the department of natural resources to take animals in the wild for the purpose of controlling the spread of disease in animals and who is hunting in an area designated by the department of natural resources as a chronic wasting disease eradication zone, except that this subdivision does not authorize the discharge of a firearm or the shooting of a bolt or arrow from a bow or crossbow across a state trunk highway, county trunk highway, or paved town highway.

1g. Subsection (2) (b) and (c) does not apply to a landowner, a family member of the landowner, or an employee of the landowner who is using a firearm, bow, or crossbow to shoot wild animals from a farm tractor or an implement of husbandry on the landowner's land that is located in an area designated by the department of natural resources as a chronic wasting disease eradication zone.

1m. Subsection (3) (a) and (b) does not apply to a state employee or agent or a federal employee or agent hunting an animal in the wild as authorized under s. 29.307 (2).

2. This paragraph does not apply after June 30, 2004.

SECTION 19. Nonstatutory provisions.

(1) PLAN. If the department of natural resources determines that there are insufficient funds available under section 20.370 (5) (fs) of the statutes, as created by this act, for the management of, and testing for, chronic wasting disease in cervids during fiscal year 2002–03, the department may develop a plan, for submission to the joint committee on finance for review, detailing the means by which the department shall manage, and test for, chronic wasting disease in cervids. If the department develops a plan under this subsection, the department shall recommend funding sources and expenditures for implementing the plan. In making these recommendations, the department may not do any of the following:

(a) Recommend the expenditure of funds from the general fund.

(b) Recommend the expenditure of more than \$2,000,000.

(c) Recommend the expenditure of more than \$1,000,000 from moneys received under sections 29.181, 29.559 (1r), and 29.563 (13) of the statutes.

(2) JOINT COMMITTEE ON FINANCE REVIEW.

(a) If the cochairpersons of the joint committee on finance do not notify the department of natural resources within 14 working days after the date of the submittal of the plan under subsection (1) that the committee has scheduled a meeting for the purpose of reviewing the plan, all of the following shall apply:

1. The department shall implement the plan.

2. If the plan specifies the expenditure of funds from a segregated fund other than the conservation fund, the funds are transferred to the conservation fund.

3. The appropriation under section 20.370 (5) (fv) of the statutes, as created by this act, is supplemented from the appropriation under section 20.865 (4) (u) of the statutes by the amount specified under the plan.

(b) If, within 14 working days after the date of the submittal by the department of natural resources, the cochairpersons of the joint committee on finance notify the department that the committee has scheduled a meeting to review the plan, the department may not implement the plan without approval of the committee. The committee may disapprove or modify the plan. If the committee modifies the plan, the committee may transfer funds to the conservation fund from another segregated fund as is necessary to implement the plan. Notwithstanding section 13.101 (3) (a) of the statutes, no finding is required to be made that an emergency exists before transferring the funds under this paragraph.

(3) DEPARTMENT OF NATURAL RESOURCES POSITIONS. The authorized FTE positions for the department of natural resources are increased by 3.0 SEG project positions, to be funded from the appropriation under section 20.370 (5) (fs) of the statutes, as created by this act, for the purpose of managing and testing for chronic wasting disease.

(4) EMERGENCY RULES RELATING TO CHRONIC WASTING DISEASE IN CERVIDS.

(a) Notwithstanding section 227.24 (2) (a) of the statutes, the joint committee for review of administrative rules may extend the effective period of emergency rules promulgated by the department of agriculture, trade and consumer protection relating to chronic wasting disease in cervids that took effect on April 9, 2002, for periods specified by the committee and may grant any number of extensions, except that the committee may not extend the effective period of the rules beyond September 1, 2003.

(b) The department of agriculture, trade and consumer protection may amend the emergency rules described in paragraph (a), while those rules are in effect, using the procedure in section 227.24 of the statutes, and any amendment remains in effect for the period provided under paragraph (a).

(c) Notwithstanding section 227.24 (2) (a) of the statutes, the joint committee for review of administrative rules may extend the effective period of any emergency rules promulgated by the department of natural resources that relate to the management of chronic wasting disease

2001 Wisconsin Act 108

– 4 –

for periods specified by the committee and may grant any number of extensions, except that the committee may not extend the effective period of the rules beyond September 1, 2003.

(d) The department of natural resources may amend the emergency rules described in paragraph (c), while those rules are in effect, using the procedure in section 227.24 of the statutes, and any amendment remains in effect for the period provided under paragraph (c).

(5) VETERINARY DIAGNOSTIC LABORATORY.

(a) The department of natural resources shall expend, in fiscal year 2002–03, a total of \$901,600 from the appropriations under section 20.370 (5) (fs) and (fv) of the statutes, as created by this act, for the purpose of testing cervids for chronic wasting disease by the veterinary diagnostic laboratory.

(b) The authorized FTE positions for the board of regents of the University of Wisconsin System are increased by 6.0 PR positions, to be funded from the appropriation under section 20.285 (1) (kg) of the statutes, for the purpose of testing cervids for chronic wasting disease by the veterinary diagnostic laboratory.

SECTION 20. Appropriation changes.

(1) VETERINARY DIAGNOSTIC LABORATORY LAPSE. Notwithstanding section 20.001 (3) (c) of the statutes, on June 30, 2002, there is lapsed to the general fund \$800,700 from the appropriation account of the board of regents of the University of Wisconsin System under section 20.285 (1) (je) of the statutes, as affected by the acts of 2001.