



WISCONSIN LEGISLATIVE COUNCIL

2005-06 SESSION IN REVIEW

Natural Resources

The Wisconsin Legislature considered many items in the 2005-06 Session relating to natural resources. Because of the large number of proposals, the number summarized in the memorandum is limited. Legislative Council Act Memos provide a more thorough description of the acts described in this memorandum and are available at www.legis.state.wi.us/lc.

The 2005-06 Legislature enacted legislation relating to hunting, and trapping, outdoor recreation, land management, and environmental protection. The Legislature also passed bills relating to shoreland zoning, wetlands, and piers that were vetoed by the Governor.

HUNTING AND TRAPPING

The Legislature passed a large number of bills relating to hunting, trapping, licenses, equipment, and education.

Licenses and Approvals - Under current law, certain Department of Natural Resources (DNR) licenses and permits are issued on a random or preference selection basis (e.g., bonus deer hunting permits). 2005 Wisconsin Act 53 allows a person who obtains an approval under a random or preference selection system who is unable to use the approval because the person is on active duty in the U.S. Armed Forces or the National Guard to ask that the approval be deferred instead of having to commence the selection process again.

Act 88 allows a person to designate a spouse, guardian, trustee, or representative who, upon the person's death, to ask DNR to transfer the person's preference points, preference categories, or approvals to a minor for the purpose of obtaining a license or permit issued on a random or preference selection basis.

A full-time student attending a college in this state that offers an associate degree is authorized, by Act 243, to obtain a resident fishing or deer hunting license.

Pursuant to Act 282, Wisconsin may enter into the Wildlife Violator Compact under which a violator whose hunting and fishing privileges are suspended in one participating state also has those privileges suspended in all participating states.

Act 284 creates a nonresident trapping license.

Hunting - Act 57 expands an exception in current law to allow a person to possess or use a flashlight while hunting coyotes on foot during the open season.

Wearing blaze orange clothing during the gun deer season nighttime hunting is no longer required according to the provisions of Act 117.

School boards may allow hunting in the school's forest according to Act 290.

Wildlife Damage Claims and Abatement - Act 82 provides that a person who receives only wildlife damage abatement assistance, and does not receive wildlife damage payments, is not required to open their property for hunting.

Deer Farms - Internet hunting, in which a firearm is set up at a deer farm or captive wild animal facility in Wisconsin and controlled by a person using a computer that is located elsewhere, is prohibited due to the passage of Act 35.

Act 359 creates an exception for previously licensed deer farms from the requirement that the area in which deer are confined must be 80 contiguous acres or more in order to charge a fee for hunting deer.

Act 409 provides that the owner of a deer farm that exists on June 2, 2006 and is located in Wisconsin and another state is not required to have the entire area within this state fenced if specific conditions are met.

The Legislature also passed several bills relating to firearms, gun clubs, and sport shooting ranges.

Firearms - Act 169 prohibits, in general, a person from intentionally discharging a firearm in the direction of a transmission facility, as defined in the Act.

Act 345 allows an unloaded firearm that is not encased to be in or on a vehicle used to transport an individual involved in sport shooting activities at sport shooting ranges.

Sales Tax Exemption for Gun Club Admissions - Act 327 creates a sales tax exemption for the sale of admissions by a gun club, and gun club members, if the gun club is a nonprofit organization and provides safety classes to at least 25 individuals in a calendar year.

Both the Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Transportation reviewed a large number of DNR administrative rules. Administrative rules objected to in part by either of these standing committees or the Joint Committee for Review of Administrative Rules (JCRAR) include the following: Clearinghouse Rule (CHR) 05-086, relating to deer hunting season and permit issuance regulation changes; CHR 05-004, relating to the payment program for damage caused by endangered and threatened species of wildlife and gray wolves to hunting dogs and pets; and CHR 05-005, relating to the payment program for damage caused by endangered and threatened species of wildlife and gray wolves to livestock.

Among the administrative rules that either the Assembly or Senate standing committee reviewed, but did not request modifications or object to, include: CHR 04-091, relating to deer management unit population goals and boundaries; CHR 05-016, relating to deer hunting as it relates to the management

of chronic wasting disease; and CHR 06-013, relating to deer hunting and the control and eradication of chronic wasting disease.

WILDLIFE MANAGEMENT

The Legislature considered a number of bills relating to wildlife management.

Controlling Chronic Wasting Disease - Act 286 authorizes DNR, for purposes of controlling chronic wasting disease, to promulgate rules that impose regulations on the transportation, possession, control, storage, or disposal of the carcass of a cervid (defined as a species of deer or elk that is present in the wild and that is not a farm-raised deer). Act 286 further authorizes DNR and the Department of Agriculture, Trade, and Consumer Protection (DATCP) to enter into agreements with persons who own or operate landfills, meat processing facilities, or wastewater treatment facilities to provide indemnity for damages resulting from the processing or disposal of carcasses of cervids and farm-raised deer that have chronic wasting disease. The Act provides a sum sufficient appropriation in the state budget to pay claims under an indemnity agreement. Act 286 also authorizes DNR to exempt deer hunters in chronic wasting disease control zones from the requirement to have a deer hunting license.

The Assembly Committee on Natural Resources requested modifications to CHR 04-078, relating to the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis. The DNR subsequently modified the rule and it became effective on May 1, 2005.

Double-Crested Cormorants - Act 287 requires the DNR to administer a program that is designed to control and manage double-crested cormorants in order to reduce damage to wildlife and plants caused by these birds.

Wholesale Fish Dealers and Commercial Fishers - Act 288 makes a variety of changes in the statutes relating to licensing and recordkeeping requirements for wholesale fish dealers and commercial fishers, inspection of wholesale fish dealer and commercial fishing records and premises, commercial fishing boats, periods when commercial fishers may fish on Green Bay, fees, seizure of certain fishing devices, establishment of a commercial fish reporting system, and a number of other provisions.

SNOWMOBILES AND BOATING

The Legislature passed several bills relating to outdoor recreation, with a focus on snowmobiles.

Snowmobile Speed Limits - Act 209 prohibits the operation of a snowmobile anywhere at a speed exceeding 55 miles per hour during the hours of darkness. Current law defines "hours of darkness" to be the time between one-half hour after sunset and one-half hour before sunrise and any other time when there is not enough natural light to clearly see a person or vehicle 500 feet away.

Snowmobile Noise Limits - Act 210 creates total vehicle noise standards for new snowmobiles, exhaust and engine noise standards for operating snowmobiles, and muffler requirements for snowmobiles. Noise standards and muffler requirements do not apply to snowmobiles competing in a sanctioned race or derby, or to snowmobiles being tested by manufacturers, distributors, or dealers on lands under their control.

The Assembly Committee on Tourism held a hearing on CHR 03-105, relating to snowmobile noise testing procedures, but did not request modifications or object to the rule.

Qualifications to Operate a Motorboat - Act 356 creates a new requirement that any motorboat operator (including the operator of a personal watercraft) who was born after January 1, 1989 and is over the age of 16 must have a boating safety certificate. Act 356 also expands the statute on rental of personal watercraft so that it applies to the rental of any motorboat, and requires that the person operating the motorboat rental business provide instructions to a person each time the person will be operating a motorboat for the first time in any calendar year. The Act prohibits DNR from enforcing the statutes created or modified by the Act until DNR promulgates rules regarding the course content, the form of the certificate, and the apportionment of the course fee between the DNR and the person conducting a course or giving instruction.

LAND MANAGEMENT

Board of Commissioner of Public Lands Sale of Public Lands - Act 352 requires the DNR to set aside \$2,000,000 in each fiscal year beginning in fiscal year 2006-07 and ending in fiscal year 2009-10, under the Warren Knowles-Gaylord Nelson Stewardship 2000 Program, to acquire certain lands from the Board of Commissioner of Public Lands (BCPL). The Act then requires the BCPL to sell public lands that it identifies to the state. The BCPL is authorized to invest the money from the sale of the identified public lands in the purchase of land in this state if specified conditions apply. The Act specifies that if the BCPL purchases land that was subject to assessment or levy of real property tax at the time of purchase, the BCPL must make annual payments in lieu of taxes from timber sales or from appropriate trust fund incomes to the appropriate local governmental unit in an amount equal to the property taxes levied on the land in the year before the BCPL purchased the land.

ENVIRONMENTAL PROTECTION

The Legislature passed a large number of bills related to air pollution, septage, well drilling requirements, and brownfields.

Air Pollution Permits - Act 28 amends air pollution permit statutes created or modified by 2003 Wisconsin Act 118. Act 28 includes changes to general air pollution control permits and the term of registration air pollution control permits, the effect of a challenge to an emission limitation in an air pollution operation permit, and directs the Department of Administration to prepare a report that identifies major regulatory barriers to the growth of the manufacturing sector in Wisconsin.

Septage and Municipal Sewage Sludge - Act 347 makes a number of changes to the statutes related to the management and disposal of septage and municipal sewage sludge. Act 347 provides that a city, village, town, or county may not prohibit or regulate the land disposal of septage if the disposal complies with the statutes and DNR administrative rules. The Act further provides that a city, village, town, or county may not prohibit the land application of sewage sludge if the application complies with DNR rules and may only regulate the application if the regulation is identical to DNR regulations. The Act requires that the septage disposal fees charged by a municipal sewage system be reasonable and be based on specified actual costs related to the disposal of septage, and creates a three-stage process for a licensed disposer to obtain a review of a disputed septage disposal fee. Act 347 makes all counties responsible for adoption and enforcement of the Department of Commerce-administered maintenance program for new private sewage systems. Finally, the Act modifies the Clean Water Fund Program to provide 0% interest rate loans for any portion of a treatment work project that relates to facilities for receiving and storing and capacity for treating septage.

Well Drilling, Pump Installing, and Well Inspection and Abandonment - Act 360 creates new licensing requirements for individual well drillers and pump installers; creates new requirements for drilling rig operator registration; provides that only a licensed pump installer or its employee, a registered pump installing business, or a welder under contract with a licensed pump installer or business may install a pitless adapter; prohibits an individual from filling or sealing a water supply well unless specified criteria apply; and authorizes DNR to issue citations to enforce specified rules relating to well drilling, pump installing, and other provisions on pure drinking water in ch. 280, Stats.

Brownfields Laws Update - Act 418 revises the laws that relate to the remediation or clean up of contaminated property, often known as brownfields. Act 418 amends the statute on environmental remediation tax incremental financing; establishes a policy on sites with residual contamination; amends the statute on voluntary party remediation and exemption from liability; creates an exemption from solid waste laws for certain properties acquired by a local governmental unit; and amends the statute on environmental repair.

The Assembly Committee on Natural Resources, the Senate Committee on Natural Resources and Transportation, or JCRAR requested modifications or objected, in part, to the following DNR administrative rules: CHR 04-066, relating to natural resources board policies on protection and management of public waters; CHR 02-099, relating to DNR standards for erosion control of inland lakes and impoundments; and CHR 04-077, relating to landfilling of solid waste.

Three bills relating to environmental protection were vetoed by the Governor:

- **County Shoreland Zoning Ordinance** - 2005 Assembly Bill 299 would have eliminated the requirement that a county shoreland zoning ordinance continues in effect on land annexed by a city or village.
- **Exemption for Certain Wetlands** - 2005 Senate Bill 551 would have created an exemption for certain wetlands for the construction of a structure located in the Town of Franklin, Kewaunee County.
- **Pier Placement and Maintenance** - 2003 Wisconsin Act 118 exempted some piers from permit requirements, created new permitting categories, and directed the DNR to develop rules to administer these provisions. The DNR then drafted ch. NR 326, relating to the regulation of piers, wharves, boat shelters, boat hoists, boat lifts, and swimming rafts in navigable waterways and submitted the rule to the Legislature as CHR 04-088. The Assembly Committee on Natural Resources and the Senate Committee on Natural Resources and Transportation held a joint hearing on the rule and requested modifications. The Legislature subsequently passed **2005 Assembly Bill 850**, which modifies current statutes regarding the placement of structures in navigable waters, to permit the placement of certain specific new piers and wharves and the continued maintenance of certain specific older piers and wharves. The Governor vetoed the bill and issued Executive Order #148, which directs the DNR not to seek removal or modification of certain piers or wharves.