



## 1995 SENATE BILL 356

September 27, 1995 - Introduced by Senators A. LASEE, ELLIS, C. POTTER, DRZEWIECKI, RUDE, SCHULTZ, WEEDEN, BRESKE, HUELSMAN, PETAK, FITZGERALD, ZIEN, WELCH, ROSENZWEIG, DARLING, PANZER, FARROW, DECKER, SHIBILSKI and CLAUSING, cosponsored by Representatives OTT, AINSWORTH, FREESE, GOETSCH, GRONEMUS, MUSSER, OURADA, SILBAUGH, SKINDRUD, ALBERS, KAUFERT, HUTCHISON, LORGE, GARD, ZIEGELBAUER, HARS DORF, HAHN, BRANDEMUEHL, F. LASEE, KLUSMAN, PROSSER and COLEMAN. Referred to Committee on Transportation, Agriculture and Local Affairs.

1     **AN ACT to repeal** 29.092 (9) (hg), 29.092 (9) (hr), 29.093 (9) (gm), 29.093 (9) (gr),  
2           29.58, 29.581 and 97.42 (1) (cm); **to renumber and amend** 93.07 (10); **to**  
3           **amend** 29.02 (3m), 29.03 (8), 29.05 (5), 29.05 (6), 29.05 (6m), 29.05 (8) (b), 29.06  
4           (1), 29.06 (2), 29.06 (3), 29.40 (6), 29.42 (4), 29.425 (4m), 29.427 (6), 29.43 (5) (b),  
5           29.44 (3), 29.45 (6), 29.48 (1m), 29.49 (1) (a) (intro.), 29.574 (1m), 29.578 (1m),  
6           29.583 (1), 29.585 (2) (a), 29.59 (1) (f), 29.598 (1), 29.645, 29.99 (15), 97.42 (1)  
7           (a), 97.42 (3) (em), 97.42 (4) (em), 97.42 (5) (b), 174.001 (3), 895.57 (3) and 943.75  
8           (3); and **to create** 29.01 (2r), 29.49 (3), 29.55 (2m), 29.583 (3), 29.586 (4), 93.07  
9           (10) (a), 95.05 and 97.42 (1) (dm) of the statutes; **relating to:** the exemption of  
10          certain farm-raised deer and venison from regulation by the department of  
11          natural resources, fencing of farm-raised deer, liability for damages caused by  
12          dogs, licensing of establishments that slaughter certain deer and the duties and  
13          authority of the department of agriculture, trade and consumer protection  
14          concerning domestic animals.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the department of natural resources (DNR) regulates the hunting, killing and possession of deer. No distinction exists under current law between deer that are native to this state and nonnative deer, except for certain deer

that are of the genus *dama* or *cervus* and that are commercially raised for slaughter. These types of deer include fallow deer, red deer and elk. These commercially raised deer are generally exempt from DNR regulation except that a person raising such deer must have a commercial deer license issued by DNR and a person selling meat from such deer must have a venison retailer permit issued by DNR. This bill eliminates the commercial deer farm license and the venison retailer permit. The bill totally exempts fallow and red deer, along with deer of the genus *rangifer*, which are reindeer, from regulation by DNR regardless of whether they are raised for slaughter. Under the bill, elk that are raised for slaughter or breeding or are kept captive for other purposes are also exempt from DNR regulation. An elk that is found in the wild and that does not have an ear tag or other mark identifying it as being raised on a farm is considered a wild animal for purposes of DNR regulation.

This bill requires a person who keeps fallow deer, red deer or elk to keep them enclosed by a fence not less than 7 feet 10 inches high. The bill requires a person who keeps reindeer to keep them enclosed by a fence not less than 5 feet high.

Under current law, the department of agriculture, trade and consumer protection (DATCP) is required to protect the health of domestic animals and is authorized to establish quarantines and other measures relating to the movement and care of animals in order to carry out this duty. This bill specifies that, for the purposes of DATCP's duty and authority related to the health of domestic animals, fallow deer, red deer, elk and reindeer are domestic animals.

Under current law, an establishment that slaughters fallow deer, red deer or elk is generally required to have a license issued by DATCP and is subject to certain other requirements. This bill applies these licensing and other requirements to an establishment that slaughters reindeer.

Under current law, the owner of a horse, cow, sheep, goat, pig, domestic rabbit, domestic fowl (including game fowl raised in captivity), dog, cat or, under some circumstances, ranch mink that is injured or killed by a dog may file a claim for the damages caused by the dog to his or her animal. Counties pay dog damage claims from the dog license fund.

This bill adds fallow deer, red deer, reindeer and elk to the kinds of animals for which dog damage claims may be filed.

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

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

- 1           **SECTION 1.** 29.01 (2r) of the statutes is created to read:
- 2           29.01 (2r) "Farm-raised deer" means an animal that is a member of the family
- 3 cervidae and of the genus *dama*, the genus *rangifer* or the genus *cervus*, except for

1 an elk that is present in the wild and that does not have an ear tag or other mark  
2 identifying it as being raised on a farm.

3 **SECTION 2.** 29.02 (3m) of the statutes is amended to read:

4 29.02 (3m) This section does not permit the seizure by the department, or  
5 prohibit the possession or sale, of ~~commercially raised~~ farm-raised deer, as defined  
6 in ~~s. 95.25 (5m)~~, that are kept in compliance with this chapter.

7 **SECTION 3.** 29.03 (8) of the statutes is amended to read:

8 29.03 (8) Any dog found running deer, except farm-raised deer, at any time,  
9 or used in violation of this chapter.

10 **SECTION 4.** 29.05 (5) of the statutes is amended to read:

11 29.05 (5) OPENING PACKAGES. The department and its wardens may examine  
12 and open any package in the possession of a common carrier which they have  
13 probable cause to believe contains ~~contraband~~ wild animals in violation of this  
14 chapter, or carcasses or parts thereof, or is falsely labeled in violation of this chapter;  
15 and every such common carrier, and every agent, servant, or employe thereof, shall  
16 permit any such officer to examine and open any such package. Any package so  
17 opened shall be restored to its original condition.

18 **SECTION 5.** 29.05 (6) of the statutes is amended to read:

19 29.05 (6) ACCESS TO STORAGE PLACES. ~~They~~ For purposes of enforcing this  
20 chapter, the department and its wardens shall be permitted by the owner or occupant  
21 of any cold storage warehouse or building used for the storage or retention of wild  
22 animals, or carcasses or parts thereof, to enter and examine said premises subject  
23 to ss. 66.122 and 66.123; and the owner or occupant, or the agent, servant, or employe  
24 of the owner, shall deliver to any such officer any wild animal, or carcass or part

1       thereof, in his or her possession during the closed season therefor, whether taken  
2       within or without the state.

3               **SECTION 6.** 29.05 (6m) of the statutes is amended to read:

4               29.05 **(6m)** ACCESS TO PRIVATE LAND. ~~Agents of~~ For purposes of enforcing this  
5       chapter, the department may, after making reasonable efforts to notify the owner or  
6       occupant, enter upon private lands to retrieve, diagnose or otherwise determine if  
7       there are dead or diseased wild animals upon those lands, and take actions  
8       reasonably necessary to prevent the spread of contagious disease in the wild animals.

9               **SECTION 7.** 29.05 (8) (b) of the statutes is amended to read:

10              29.05 **(8)** (b) Any perishable property seized by the department or its wardens  
11       may be sold at the highest available price, and the proceeds of the sale turned into  
12       court to await disposition of the proceeds as the court directs. A conservation warden  
13       or other officers charged with the enforcement of the laws dealing with the  
14       conservation of the natural resources of the state may kill a dog found running,  
15       injuring, causing injury to, or killing any deer, other than farm-raised deer, or  
16       destroying game birds, their eggs or nests, if immediate action is necessary to protect  
17       the deer or game birds, their nests or eggs, from injury or death.

18              **SECTION 8.** 29.06 (1) of the statutes is amended to read:

19              29.06 **(1)** All ~~confiscated~~ wild animals, or carcasses or parts thereof, that are  
20       confiscated by the department and all confiscated apparatus, appliances,  
21       equipment, vehicles or devices shall, if not destroyed as authorized by law, be sold  
22       at the highest price obtainable, by the department or its wardens, or by an agent on  
23       commission under the written authority and supervision of the department. The net  
24       proceeds of such the sales, after deducting the expense of seizure and sale and any  
25       such commissions, shall be promptly remitted by the warden by whom or under

1 whose authority and supervision the sales are made, to the department; the  
2 remittance to be accompanied by a complete and certified report of ~~such~~ the sales,  
3 supported by proper vouchers covering all deductions made for expenses and  
4 commissions, to be filed with the department. Of the remittance from ~~such~~ the sales  
5 of confiscated apparatus, appliances, equipment, vehicles or devices, 18% shall be  
6 paid into the conservation fund to reimburse it for expenses incurred in seizure and  
7 sale, and the remaining 82% shall be paid into the common school fund. In the case  
8 of the proceeds from the sale of a confiscated motor vehicle if the holder of a security  
9 interest perfected by filing with ~~such~~ the motor vehicle as security, ~~satisfies (and the~~  
10 ~~burden of proof shall be upon the holder of a security interest)~~ proves to the court,  
11 or after judgment of confiscation, to the department, that the violation that led to  
12 ~~such~~ the confiscation was not with his or her knowledge, consent or connivance or  
13 with that of some person employed or trusted by the holder of a security interest,  
14 there shall also be deducted the amount due under the security agreement from the  
15 proceeds of ~~such~~ the sale and the amount due shall be paid to the one entitled; in case  
16 a sufficient amount does not remain for such purpose after the other deductions then  
17 the amount remaining shall be paid. The department shall make a reasonable effort  
18 within 10 days after seizure to ascertain if a security interest in the seized motor  
19 vehicle exists, and shall within 10 days after obtaining actual or constructive notice  
20 of ~~such~~ any security interest give the secured party notice of the time and place when  
21 there is to be any proceeding before the court or the judge pertaining to ~~such~~ the  
22 confiscation and shall also give ~~such~~ the secured party at least 10 days' notice of the  
23 time and place of sale. Constructive notice shall be limited to security interests  
24 perfected by filing. In all such cases the time of sale of the confiscated motor vehicle  
25 shall be within 20 days after judgment of confiscation provided in s. 29.05 (8). The

1 provisions of s. 973.075 (1) (b) 1. to 3. and (5) apply to vehicles other than motor  
2 vehicles under this subsection. This subsection shall not apply to a deer killed, or  
3 so injured that it must be killed, by a collision with a motor vehicle on a highway.  
4 Such deer carcass shall be released free of charge to the motor vehicle operator under  
5 s. 29.40 (5) by the department or its agent, but shall be retained by the department  
6 or its agent if the motor vehicle operator declines to accept the carcass. For purposes  
7 of this subsection, "deer" does not include farm-raised deer.

8 **SECTION 9.** 29.06 (2) of the statutes is amended to read:

9 29.06 (2) On any such sales under this section of wild animals, or carcasses or  
10 parts thereof, the warden or agent selling them shall issue to each purchaser a  
11 certificate, on forms to be prepared and furnished by the department, covering such  
12 sales. The wild animals, or carcasses or parts thereof, so purchased shall be  
13 consumed or otherwise disposed of by the purchaser within a period to be set by the  
14 department, but shall not be resold, bartered, or exchanged, in whole or in part, to  
15 any other person, except as provided in sub. (3).

16 **SECTION 10.** 29.06 (3) of the statutes is amended to read:

17 29.06 (3) Confiscated fish or game sold under this section to the keeper,  
18 manager, or steward of any restaurant, club, hotel, or boarding house may be served  
19 to the guests thereof; but in such case the certificate covering the purchase shall be  
20 hung in public view in the place where the fish or game is served, and such fish or  
21 game shall at the time of sale be tagged by the warden or agent selling it, such tag  
22 to show the date of sale and be returned to said warden or agent within 5 days  
23 thereafter.

24 **SECTION 11.** 29.092 (9) (hg) of the statutes is repealed.

25 **SECTION 12.** 29.092 (9) (hr) of the statutes is repealed.

1           **SECTION 13.** 29.093 (9) (gm) of the statutes is repealed.

2           **SECTION 14.** 29.093 (9) (gr) of the statutes is repealed.

3           **SECTION 15.** 29.40 (6) of the statutes is amended to read:

4           29.40 **(6)** (title) ~~COMMERCIALY RAISED~~ FARM-RAISED DEER. This section does not  
5 apply to ~~commercially raised~~ farm-raised deer, ~~as defined in s. 95.25 (5m).~~

6           **SECTION 16.** 29.42 (4) of the statutes is amended to read:

7           29.42 **(4)** (title) ~~COMMERCIALY RAISED~~ FARM-RAISED DEER. This section does not  
8 permit the seizure by the department, or prohibit the possession or sale, of  
9 ~~commercially raised~~ farm-raised deer, ~~as defined in s. 95.25 (5m), that are kept in~~  
10 ~~compliance with this chapter.~~

11           **SECTION 17.** 29.425 (4m) of the statutes is amended to read:

12           29.425 **(4m)** APPLICABILITY. This section does not apply to ~~commercially raised~~  
13 farm-raised deer, ~~as defined in s. 95.25 (5m).~~

14           **SECTION 18.** 29.427 (6) of the statutes is amended to read:

15           29.427 **(6)** DESTRUCTION. A person may kill at any time a wild skunk which is  
16 a nuisance to activities authorized under s. 29.55, 29.572, 29.574, 29.575, 29.578,  
17 ~~29.58~~ or 29.585. A person who kills an adult wild skunk with young shall attempt  
18 to kill the young skunks.

19           **SECTION 19.** 29.43 (5) (b) of the statutes is amended to read:

20           29.43 **(5)** (b) Subsections (1) to (4) do not apply to the possession,  
21 transportation, delivery or receipt of ~~commercially raised~~ farm-raised deer, ~~as~~  
22 ~~defined in s. 95.25 (5m).~~

23           **SECTION 20.** 29.44 (3) of the statutes is amended to read:

1           29.44 **(3)** Subsection (1) does not apply to the possession, transportation,  
2 delivery or receipt of ~~commercially raised~~ farm-raised deer, as defined in s. 95.25  
3 (~~5m~~).

4           **SECTION 21.** 29.45 (6) of the statutes is amended to read:

5           29.45 **(6)** This section does not apply to the transportation of ~~commercially~~  
6 raised farm-raised deer, as defined in s. 95.25 (~~5m~~).

7           **SECTION 22.** 29.48 (1m) of the statutes is amended to read:

8           29.48 **(1m)** Subsection (1) does not apply to ~~commercially raised~~ farm-raised  
9 deer, as defined in s. 95.25 (~~5m~~).

10          **SECTION 23.** 29.49 (1) (a) (intro.) of the statutes is amended to read:

11          29.49 **(1)** (a) (intro.) Except as provided in ss. s. 29.52 and 29.581, no innkeeper,  
12 manager or steward of any restaurant, club, hotel, boarding house, tavern, logging  
13 camp or mining camp may sell, barter, serve or give, or cause to be sold, bartered,  
14 served or given to the guests or boarders thereof:

15          **SECTION 24.** 29.49 (3) of the statutes is created to read:

16          29.49 **(3)** EXEMPTION. This section does not apply to the meat from farm-raised  
17 deer.

18          **SECTION 25.** 29.55 (2m) of the statutes is created to read:

19          29.55 **(2m)** Subsections (1) and (2) do not apply to farm-raised deer.

20          **SECTION 26.** 29.574 (1m) of the statutes is amended to read:

21          29.574 **(1m)** This section does not apply to ~~commercially raised~~ farm-raised  
22 deer, as defined in s. 95.25 (~~5m~~).

23          **SECTION 27.** 29.578 (1m) of the statutes is amended to read:



1           29.578 **(1m)** This section does not apply to ~~commercially raised deer, as defined~~  
2     ~~in s. 95.25 (5m), or to commercial deer farms licensed under s. 29.58 of the genus~~  
3     ~~dama, cervus or rangifer.~~

4           **SECTION 28.** 29.58 of the statutes is repealed.

5           **SECTION 29.** 29.581 of the statutes is repealed.

6           **SECTION 30.** 29.583 (1) of the statutes is amended to read:

7           29.583 **(1)** The department may seize and dispose of or may authorize the  
8     disposal of any deer that has escaped from land licensed under s. 29.574, or 29.578  
9     ~~or 29.58~~ if the licensee has not had the deer returned to the land within 72 hours of  
10    the discovery of the escape.

11          **SECTION 31.** 29.583 (3) of the statutes is created to read:

12          29.583 **(3)** This section does not apply to farm-raised deer.

13          **SECTION 32.** 29.585 (2) (a) of the statutes is amended to read:

14          29.585 **(2)** (a) ~~The term In this section, “wild animal” as used in this section~~  
15     means any mammal, fish or bird of a wild nature as distinguished from domestic  
16     animals under the common law or under the ~~Wisconsin~~ statutes whether or not the  
17     mammal, fish or bird was bred or reared in captivity, but does not include deer of the  
18     genus dama, cervus or rangifer.

19          **SECTION 33.** 29.586 (4) of the statutes is created to read:

20          29.586 **(4)** This section does not apply to farm-raised deer.

21          **SECTION 34.** 29.59 (1) (f) of the statutes is amended to read:

22          29.59 **(1)** (f) Notwithstanding s. 29.01 (14), “wild animal” means any  
23     undomesticated mammal or bird, but does not include farm-raised deer.

24          **SECTION 35.** 29.598 (1) of the statutes is amended to read:

1           29.598 (1) DEFINITION. ~~As used in~~ In this section, “wildlife damage” means  
2 damage caused by wild deer that live in the wild, bear or geese to commercial  
3 seedings or crops on agricultural land, to orchard trees or nursery stock or to apiaries  
4 or livestock.

5           **SECTION 36.** 29.645 of the statutes is amended to read:

6           **29.645 Larceny of game.** A person who, without permission of the owner,  
7 molests, disturbs or appropriates any wild animal or its carcass that has been  
8 lawfully reduced to possession by another shall forfeit not less than \$1,000 nor more  
9 than \$2,000. This section does not apply to farm-raised deer.

10          **SECTION 37.** 29.99 (15) of the statutes is amended to read:

11          29.99 (15) In any prosecution under this section it is not necessary for the state  
12 to allege or prove that the animals were not ~~commercially raised~~ farm-raised deer  
13 or domesticated animals; that they were not taken for scientific purposes, or that  
14 they were taken or in possession or under control without a required approval. The  
15 person claiming that these animals were ~~commercially raised~~ farm-raised deer or  
16 domesticated animals, that they were taken for scientific purposes or that they were  
17 taken or in possession or under control under the required approval, has the burden  
18 of proving these facts. ~~In this subsection, “commercially raised deer” has the~~  
19 ~~meaning given in s. 95.25 (5m).~~

20          **SECTION 38.** 93.07 (10) of the statutes, as affected by 1995 Wisconsin Act 27,  
21 is renumbered 93.07 (10) (b) and amended to read:

22          93.07 (10) (b) To protect the health of domestic animals of the state; to  
23 determine and employ the most efficient and practical means for the prevention,  
24 suppression, control and eradication of communicable diseases among domestic  
25 animals, and for these purposes it may establish, maintain, enforce and regulate

1 such quarantine and such other measures relating to the importation, movement  
2 and care of animals and their products, the disinfection of suspected localities and  
3 articles, and the disposition of animals, as the department may deem necessary. The  
4 definition of “communicable disease” in s. 990.01 (5g) does not apply to this  
5 subsection paragraph.

6 **SECTION 39.** 93.07 (10) (a) of the statutes is created to read:

7 93.07 (10) (a) In this subsection, “domestic animals” includes farm-raised deer,  
8 as defined in s. 29.01 (2r).

9 **SECTION 40.** 95.05 of the statutes is created to read:

10 **95.05 Fencing of farm-raised deer.** Any person who keeps farm-raised  
11 deer, as defined in s. 29.01 (2r), shall keep the farm-raised deer enclosed by a fence  
12 not less than 7 feet 10 inches high, except that animals of the genus rangifer shall  
13 be kept enclosed by a fence not less than 5 feet high.

14 **SECTION 41.** 97.42 (1) (a) of the statutes is amended to read:

15 97.42 (1) (a) “Animal” means cattle, sheep, swine, goats, ~~commercially raised~~  
16 farm-raised deer, horses, mules, and other equines.

17 **SECTION 42.** 97.42 (1) (cm) of the statutes is repealed.

18 **SECTION 43.** 97.42 (1) (dm) of the statutes is created to read:

19 97.42 (1) (dm) “Farm-raised deer” has the meaning given in s. 29.01 (2r).

20 **SECTION 44.** 97.42 (3) (em) of the statutes is amended to read:

21 97.42 (3) (em) (title) *Slaughter of ~~commercially raised~~ farm-raised deer.* The  
22 requirements of pars. (a) and (b) do not apply to the slaughter of a ~~commercially~~  
23 raised farm-raised deer if its meat food products are not sold by a person holding a  
24 restaurant permit under s. 254.64 or by an operator of a retail food establishment,  
25 as defined under s. 97.30 (1) (c). The operator of an establishment in which

1 ~~commercially raised~~ farm-raised deer, their carcasses or their meat food products  
2 are examined and inspected under this subsection shall pay the department for the  
3 cost of the department's examination and inspection.

4 **SECTION 45.** 97.42 (4) (em) of the statutes is amended to read:

5 97.42 (4) (em) The rate at which an operator of an establishment that  
6 slaughters ~~commercially raised~~ farm-raised deer or processes the meat products of  
7 ~~commercially raised~~ farm-raised deer shall pay the costs of examination and  
8 inspection under sub. (3) (em) and the manner in which the department shall collect  
9 those amounts.

10 **SECTION 46.** 97.42 (5) (b) of the statutes is amended to read:

11 97.42 (5) (b) No county or municipality may collect any fees or charges for meat  
12 or poultry inspection or enforcement from any licensee under this section, except for  
13 overtime inspection work and the inspection of ~~commercially raised~~ farm-raised  
14 deer. Charges for overtime or for the inspection of ~~commercially raised~~ farm-raised  
15 deer shall be on the same basis as and shall not exceed charges for overtime work or  
16 for the inspection of ~~commercially raised~~ farm-raised deer prescribed by this section  
17 or by the rules of the department.

18 **SECTION 47.** 174.001 (3) of the statutes is amended to read:

19 174.001 (3) "Livestock" means any horse, bovine, sheep, goat, pig, domestic  
20 rabbit, farm-raised deer, as defined in s. 29.01 (2r), or domestic fowl, including game  
21 fowl raised in captivity.

22 **SECTION 48.** 895.57 (3) of the statutes is amended to read:

23 895.57 (3) Subsection (2) does not apply to any humane officer, local health  
24 officer, peace officer, employe of the department of natural resources while on any  
25 land licensed under s. 29.52, 29.573, 29.574, 29.575, or 29.578 ~~or 29.58~~ or designated

1 as a wildlife refuge under s. 29.57 (1) or employe of the department of agriculture,  
2 trade and consumer protection if the officer's or employe's acts are in good faith and  
3 in an apparently authorized and reasonable fulfillment of his or her duties.

4 **SECTION 49.** 943.75 (3) of the statutes is amended to read:

5 943.75 **(3)** Subsection (2) does not apply to any humane officer, local health  
6 officer, peace officer, employe of the department of natural resources while on any  
7 land licensed under s. 29.52, 29.573, 29.574, 29.575, or 29.578 ~~or 29.58~~ or designated  
8 as a wildlife refuge under s. 29.57 (1) or employe of the department of agriculture,  
9 trade and consumer protection if the officer's or employe's acts are in good faith and  
10 in an apparently authorized and reasonable fulfillment of his or her duties. This  
11 subsection does not limit any other person from claiming the defense of privilege  
12 under s. 939.45 (3).

13 **(END)**