



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-2277/1
KP:wlj

2017 ASSEMBLY BILL 374

June 6, 2017 - Introduced by Representatives WACHS, MILROY, MEYERS, BARCA, BERCEAU, BILLINGS, BROSTOFF, CONSIDINE, FIELDS, HESSELBEIN, MASON, OHNSTAD, SPREITZER, SUBECK and ZAMARRIPA, cosponsored by Senators MILLER and CARPENTER. Referred to Committee on Natural Resources and Sporting Heritage.

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

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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:

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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.

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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

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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:

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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.

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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

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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

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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.**

