

# ANDRÉ JACQUE

STATE REPRESENTATIVE • 2<sup>nd</sup> ASSEMBLY DISTRICT

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P.O. Box 8952  
Madison, WI 53708-8952

TO: Members of the Assembly Committee on State Affairs and Government Operations

FROM: Representative André Jacque

DATE: January 22, 2014

RE: Assembly Bill 422

Chairman Weininger and Committee Members:

Thank you for considering Assembly Bill 422 today. I introduced this legislation to legalize duck races held by non-profit organizations throughout Wisconsin. The impetus for this bill is a letter sent to the village of Mishicot from the Department of Justice - the result of a citizen complaint - saying that a rubber duck race they hold annually as a part of their Mishicot Riverfest activities is illegal gambling and potentially subject to criminal prosecution, including possible felony charges. Similar letters have been sent to other communities in Wisconsin.

Currently, duck races or any game structure that includes all three elements of gambling (prize, chance and consideration) are illegal under Wis. Stats. Ch. 945 and punishable by a misdemeanor up to a Class I felony charge by the District Attorney in the county of infraction. A simple internet search, though, demonstrates that community duck races and similar events are not at all uncommon in Wisconsin and have proven to be popular, enjoyable, and a critical source of funds for worthy charities.

For example, Mishicot's duck race is an integral part of Mishicot Riverfest, the biggest non-profit fund raiser of the year for the Mishicot Area Growth and Improvement Committee, "MAGIC", a fully accredited, state licensed non-profit that redistributes all funds raised back into the community through participating non-profits such as the volunteer Fire Dept., Ambulance Service, Sportsman's Club, School Sports Boosters, etc. The Riverfest Mighty East Twin River duck race has been an important community fundraiser for the Mishicot area for the past 16 years.

There are a LOT of festivals around the state that organize Duck Races, which are openly advertised to the public, including on the official State of Wisconsin tourism website. For example, Sheboygan Falls hosts the "Ducktona 500", Madison Parks Foundation, Madison Mallards and West Bend each sponsor and organize a "Rubber Ducky River Race", Gresham and Manitowish Water host annual races as part of their unique community festivities, Lodi, home of Suzie the Duck, celebrates its race as the centerpiece of their annual Duck Days event, Mayville has a race during their Audubon Days and Menomonee Falls has a "Lucky Ducky Derby." Enforcement has been largely selective and subject to complaint.

This bill was drafted to create an exception for duck races modeled after language from Michigan and Minnesota, both of which have made room in their laws for these harmless, community friendly events. I am appreciative of suggestions from for broader raffle reform from the Department of Administration's charitable gaming division which have been incorporated into Assembly Substitute Amendment 1. **Assembly Substitute 1** creates the concept of "certificates of participation" for raffles in Wisconsin, much like Minnesota has and provides that raffle games not be limited to just duck races, but would allow other types of alternative raffle games (i.e. "cow chip bingo," golf ball drops, etc.) to be approved by the Department of Administration as well.

As with current Wisconsin raffle regulations, eligibility to run a duck race or other event would be restricted to any local religious, charitable service, fraternal or veterans organization or any organization to which contributions are deductible for federal income tax purposes or state income or franchise tax purposes, which has been in existence for one year immediately preceding its application for a license or which is chartered by a state or national organization which has been in existence for at least 3 years.

Thank you again for facilitating this discussion to protect these longstanding and enjoyable events found throughout Wisconsin that provide innocent fun and raise much needed funds for small communities and worthy causes. I hope you will join me in supporting Assembly Bill 422.



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David S. Matthews, Administrator

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V/TTY 1-800-947-3529  
Email: dci@doj.state.wi.us

June 11, 2013

Village of Mishicot  
511 East Main Street  
Mishicot, WI. 54228

Re: Mishicot Riverfest

To Whom It May Concern:

It has been brought to our attention that the Village of Mishicot is conducting a Mighty East Twin Duck Race as part of its Riverfest 2013 festivities, being held from July 25-July 28, 2013. There are no rules posted on the Mishicot website for this event, but based upon available information from previous events, the prizes range anywhere from \$25.00 to \$1,000.00 for the winners.

Traditional "duck races" constitute illegal gambling in Wisconsin. Any event in which an individual purchases a numbered duck, which is then dropped into a body of water and floated to a finish line, and the owner of the "winning duck" then receives a prize, constitutes a Lottery, as defined by Wisconsin Statutes 945.01(5). Lotteries, unless conducted by the State of Wisconsin, are illegal. Penalties for conducting an illegal lottery range anywhere from a misdemeanor to a Class I Felony.

While we recognize that a variety of games are often associated with community festivals like yours, the Department of Justice requests that you do not conduct any future duck races in the state of Wisconsin. As mentioned, there are numerous other legal fundraising endeavors that may be undertaken that would serve your purposes and not violate the statutory prohibitions against illegal gambling.

Should you have any questions, please feel free to contact us.

Sincerely,

Jody R. Wormet  
Director, Special Operations Bureau  
Division of Criminal Investigation

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# Quack! Wisconsin bill would make Ducktona 500 and other duck races legal

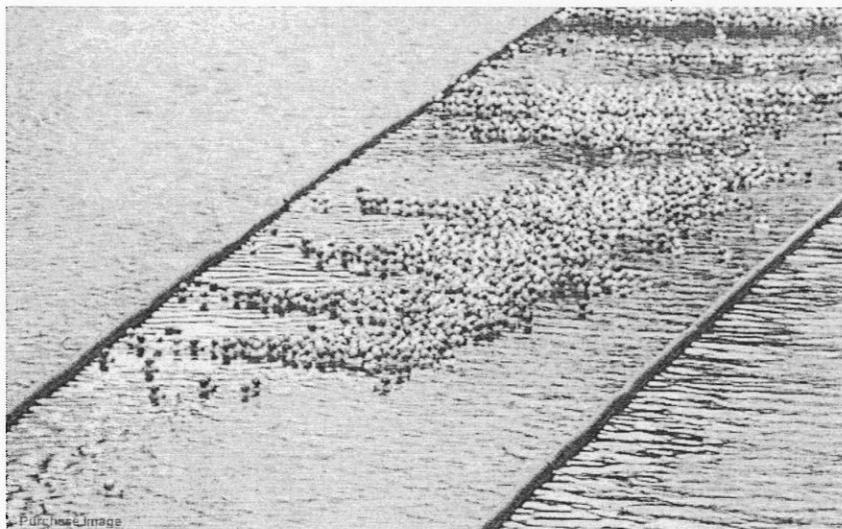
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Little plastic ducks float down the river at Sheboygan Falls during the annual run of the Ducktona 500 in this file photo. New legislation would make it legal to operate a raffle on the ducks. / Sheboygan Press Media file photo

Written by Associated Press and Sheboygan Press Media

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Local News

**MADISON** — For 25 years, the Sheboygan Falls Chamber of Commerce-Main Street organization has held the Ducktona 500, a fund raising race of plastic ducks in the Sheboygan River.

If one Wisconsin lawmaker has his way, the event will soon be [legal](#).

State Rep. Andre Jacque is introducing a bill that would legalize duck races, including the Ducktona 500.

The races [work](#) like this: people buy raffle tickets that correspond with the numbers on the bottoms of plastic ducks, which are floated down the river. The first to float across the finish line wins.

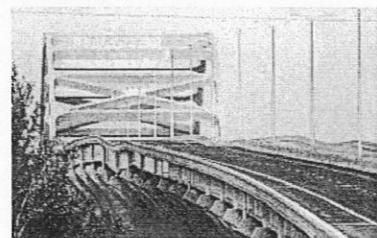
Rubber duck races are a popular way to raise [money](#), and include the "Lucky Ducky Derby" in Menomonee Falls.

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Shirl Breunig, executive director of Sheboygan Falls Chamber-Main Street, said the Ducktona 500 is a very important event for her organization and there are no plans to end it.

"It's our major fundraiser of the year," said Breunig, who declined to specify how much money it brings in. "We did not know it (was illegal) until few years ago, when somebody called it to our attention. We looked up the statute and we saw that, and we just decided we were going to go ahead with it anyway."

Jacque said the village of Mishicot was warned by the Wisconsin Department of Justice that its annual rubber duck race amounts to illegal gambling.

Jacque's bill creates an exemption for duck races, similar to laws in Minnesota and Michigan.

Breunig said she supports Jacque's effort, and pointed out that the Ducktona 500 has always received strong [support](#) from the residents of Sheboygan Falls.

"I'm sure if something like this would become a law or whatever, it would definitely be to our [advantage](#)," she said. "We have over 150 volunteers for that event, it's really supported well by the community. It's very important."

This year, nearly 3,000 plastic ducks glided along the temporary track for the two-day Sheboygan Falls Centennial Celebration and Ducktona 500 Family Festival and Car Show at River Park in July.

The top four ducks that make it into the finish gate [reward](#) their sponsors with cash prizes. The grand prize is \$1,000, second place is \$500, third place is \$250 and fourth place is \$100.

Its unofficial hostess is "Miss Duck," who has been played by Ruth Paul the last three years in full duck costume.

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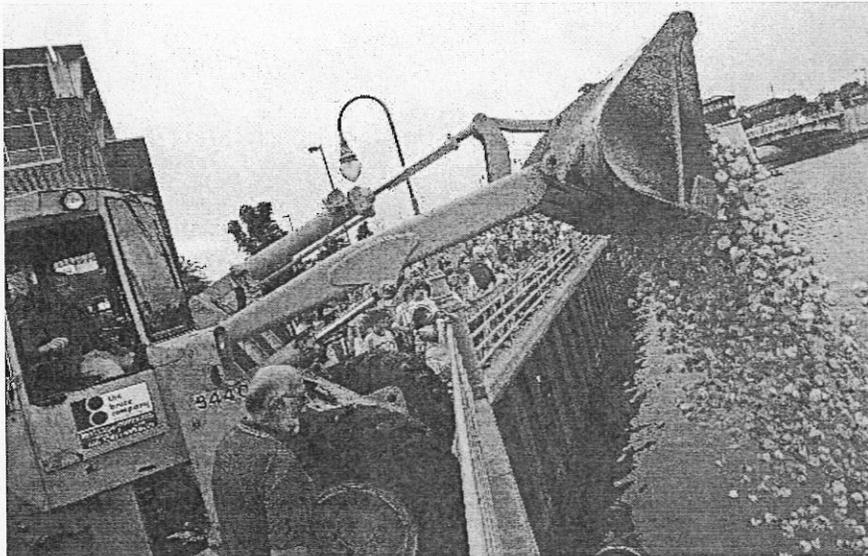
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Jim Stingl | In My Opinion

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## State quacks down on ducks



Jeffrey Phelps

A front-end loader dumps hundreds of yellow rubber ducks into the Root River in Racine. The Department of Justice frowns on the races.

Oct. 1, 2013

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If it looks like a duck and fund-raises like a duck, it's illegal in Wisconsin.

That's the message from the state Department of Justice, which has sent surprisingly stern letters to groups that stage toy duck races.

"Any event in which an individual purchases a numbered duck, which is then dropped into a body of water and floated to a finish line, and the owner of the 'winning duck' then receives a prize, constitutes a lottery, as defined by Wisconsin Statutes 945.01(5)," said the letter telling the Village of Mishicot to cease and desist racing ducks at its Riverfest.

Unless it's a state-run lottery, it's illegal gambling, and the perp could be charged with a misdemeanor or even a felony, the letter warns.

You can imagine the prison cell conversation.

Meth dealer: "Hey, man, what're you in for?"

Civic booster: "I aided and abetted a rubber ducky race."

These races have been held openly for years in Milwaukee, South Milwaukee, Menomonee Falls, Cedarburg and many other communities statewide. They tend to have clever names like Ducktona 500 and the Kentucky Derby.

Turns out, they're all a bunch of scofflaws.

State Rep. Andre Jacque, a Republican from DePere, is trying to change that. He is leading the charge to pass a bill legalizing duck races in Wisconsin, and he's hoping to get approval by next summer's plastic duck season.

"This is one area where government doesn't meet the common sense test, and I put something forward to hopefully fix that," Jacque told me Tuesday.

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Mishicot is in Jacque's district, and he doesn't like the state police going all Scrooge McDuck on their fun and harmless waterway races. Michigan and Minnesota already have made these current events legal.

"Doesn't the state have better things they can do with their time in terms of enforcement than going after duck races that help community nonprofits?" he said.

Jacque's bill mandates that all racing ducks are to be unsinkable and unbreakable, that the waterway shall be free of obstructions, that people watching the race must refrain from touching, hindering or moving the ducks, and that there's some kind of chute at the finish line so it's clear which ducks have won.

No one answered the phone Tuesday afternoon at the Mishicot village office. I'm hoping the government shutdown hasn't spread that far. I also got no answer at the Mishicot Area Growth and Improvement Committee, which sponsors the duck race.

But I did reach Jon Kelton, who told me the sad story of what happened this year when Arkansaw Fur, Fish and Game was told by the state it could no longer run its annual duck race down the Arkansaw Creek in Pepin County. A regular, boring raffle was held instead, and it was a flop.

"We had a bunch of leftover chicken because no one stuck around," said Kelton, the group's vice president. "We took it in the shorts this year."

How popular is the duck race in this community of fewer than 200 people? "We just bought a brand new bunch of ducks three years ago, and we got 4,000," Kelton said.

Sure it's hard to win, but that doesn't seem to discourage most people. And money is raised for a good cause.

So lighten up, state agents. It's time for ducks unlimited, a real duck dynasty in Wisconsin. That way we're all winners, except, of course, for the thousands of losers.

Call Jim Stingl at (414) 224-2017 or email at [jstingl@jrn.com](mailto:jstingl@jrn.com)

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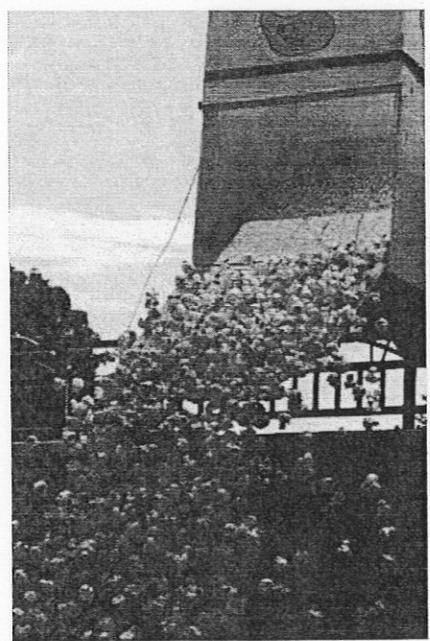
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# Bill would protect duck derbies

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Posted: Wednesday, October 2, 2013 9:24 am | Updated: 9:29 am, Wed Oct 2, 2013.

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Posted on October 2, 2013  
 by [Jennifer Fetterly](#)



One Republican lawmaker is calling a fowl against the Wisconsin Department of Justice's attempt to curtail rubber ducky races.

Last week State Rep. Andre Jacque (R-De Pere) circulated a proposal to legalize non-profit duck race fundraisers after the DOJ warned the village of Mishicot that its annual event was a form of illegal gambling.

Jacque's bill would not only save similar events, like the popular Susie the Duck Day derby in Lodi, but others like the Ducktona 500 in Sheboygan Falls and the Lucky Ducky Derby in Menomonee Falls.

"This is just common sense. These events raise money for worthy non-profit organizations and are really no different than raffles," Jacque said in a phone interview Monday. "This bill would safeguard these events across the state which are now being selectively prosecuted."

While the Lodi event has never received any warnings or complaints, organizers have had their feathers ruffled with the thought that the big money making event could be shut down.

## Bill would protect duck derbies

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Locally the duck derby, sponsored by the Lodi and Lake Wisconsin Chamber of Commerce, is held the second Saturday in August and funds economic development and chamber activities.

"The highlight of the Susie the Duck Day event is not gambling," said Lodi-Lake Wisconsin Chamber of Commerce director Kathleen Hartmann. "It is a family-oriented event with these cute ducks floating down the creek. There is nothing sinister about it. All the money goes to promote local businesses and the community."

Hartmann said the Lodi event is run as a raffle and has the appropriate license.

Tickets are sold for \$5 a piece or five for \$20, with winners being the first to cross the finish line. The event is one of the chamber's biggest fundraisers.

If Rep. Jacque's bill passes it would be similar to laws in Minnesota and Michigan that provide exemptions to duck races.

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Under Wisconsin state law, the rubber duck races are considered lotteries, participants buying tickets are given an opportunity to win an award based on chance. State-run lotteries are legal, however. Bingo and raffles are not considered lotteries under the law.

The DOJ sent a letter to village of Mishicot Riverfest organizers on June 11, 2013 warning them that the traditional "duck race" constituted a lottery and advised them to use other legal fundraiser endeavors.

Jacque said he spoke with DOJ officials but they didn't budge. He believes the duck races are similar to raffles, which are legal.

As far as his proposal is concerned, Jacque believes he has started getting his ducks in a row. As of Monday, eight lawmakers have come forward to co-sponsor the bill.

"I've have gotten a lot of support since I introduced it last Thursday and I expect to hear from more before the Oct. 3 deadline," Jacque said.

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Posted in News on Wednesday, October 2, 2013 9:24 am. Updated: 9:29 am.

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