

# State of Wisconsin



2023 Senate Bill 586

Date of enactment: **March 14, 2024**

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## 2023 WISCONSIN ACT 115

AN ACT *to amend* 29.016 (1) (b), 29.016 (2) (intro.), 29.053 (3), 29.089 (2) (intro.), 29.091 (1), 29.091 (2) (intro.), 29.164 (2) (b), 29.173 (2) (a), 29.182 (3) (a), 29.182 (3) (b), 29.184 (3) (am), 29.184 (3) (c), 29.185 (6) (a) 1., 29.185 (6) (b), 29.193 (2) (cr) 4., 29.193 (2) (d), 29.211 (2), 29.311 (1), 29.312 (2), 29.314 (3) (a), 29.324 (1) (b), 29.324 (1) (d), 29.341 (1), 29.345, 29.592 (1) (intro.), 29.621 (4) (intro.), 29.927 (6g), 29.971 (12), 66.0409 (1) (a), 167.31 (2) (c), 167.31 (2) (d), 167.31 (3) (b), 167.31 (3m) (a), 167.31 (4) (a) (intro.), 167.31 (4) (am) 1., 167.31 (4) (at), 167.31 (4) (cg) (intro.), 167.31 (4) (cg) 4., 167.31 (4) (cg) 6., 167.31 (4) (e), 167.31 (4) (f), 167.31 (4) (fm) and 167.31 (4) (h) (intro.); and *to create* 29.001 (7), 29.014 (1u) and 167.31 (1) (am) of the statutes; **relating to**: hunting with an airgun, providing an exemption from emergency rule procedures, granting rule-making authority, and providing a penalty.

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

**SECTION 1.** 29.001 (7) of the statutes is created to read:

29.001 (7) "Airgun" means a weapon originally manufactured to expel one or more metal projectiles by the expansion of compressed air.

**SECTION 2.** 29.014 (1u) of the statutes is created to read:

29.014 (1u) (a) If the department establishes an open season for hunting an animal with a firearm, the season shall also be open for hunting that animal with an airgun.

(b) The department may promulgate rules limiting the types of airguns that may be used to hunt specific species during particular hunting seasons. If the department promulgates rules under this paragraph, the department shall allow the use of airguns and airgun ammunition that are similar to permitted firearms and firearm ammunition with regards to effectiveness for hunting.

**SECTION 3.** 29.016 (1) (b) of the statutes is amended to read:

29.016 (1) (b) Except as provided in subs. (2) and (3), establish a fall open season for hunting deer with firearms and airguns that begins before the Saturday immediately preceding the 4th Thursday in November.

**SECTION 4.** 29.016 (2) (intro.) of the statutes is amended to read:

29.016 (2) (intro.) Subsection (1) (b) does not prohibit the department from promulgating a rule that establishes a fall open season for hunting deer with firearms and airguns that begins before the Saturday immediately preceding the 4th Thursday in November if any of the following applies:

**SECTION 5.** 29.053 (3) of the statutes is amended to read:

29.053 (3) The department may modify any requirement of this chapter or rules promulgated under it, establish special seasons, authorize the use of special equip-

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\* Section 991.11, WISCONSIN STATUTES: 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."

ment or take any other action in order to provide additional hunting and fishing opportunities for persons who are physically disabled or visually handicapped. The department may limit the number of persons involved, except that if the department establishes a special season for hunting deer with firearms and airguns for persons who are physically disabled, the season shall be open to persons who have been issued a Class D permit under s. 29.193 (2).

**SECTION 6.** 29.089 (2) (intro.) of the statutes is amended to read:

29.089 (2) (intro.) No person may have in his or her possession or under his or her control a firearm or airgun on land located in state fish hatcheries unless the firearm or airgun is unloaded and enclosed within a carrying case. This subsection does not apply to any of the following:

**SECTION 7.** 29.091 (1) of the statutes is amended to read:

29.091 (1) No person may hunt or trap within any wildlife refuge established under s. 23.09 (2) (b) or 29.621 (1), or, except as provided in sub. (2), have possession or control of any gun, firearm, airgun, bow, or crossbow unless the gun or, firearm, or airgun is unloaded, the bow or crossbow is unstrung, and the gun, firearm, airgun, bow, or crossbow is enclosed within a carrying case. The taking of predatory game birds and animals shall be done as the department directs. All state wildlife refuge boundary lines shall be marked by posts placed at intervals of not over 500 feet and bearing signs with the words "Wisconsin Wildlife Refuge".

**SECTION 8.** 29.091 (2) (intro.) of the statutes is amended to read:

29.091 (2) (intro.) The prohibition in sub. (1), as it relates to the possession or control of a loaded or unencased gun or, firearm, or airgun within a refuge established under s. 23.09 (2) (b), does not apply to any of the following:

**SECTION 9.** 29.164 (2) (b) of the statutes is amended to read:

29.164 (2) (b) *Type of hunting authorized.* A license issued under this section authorizes hunting with a firearm, airgun, bow and arrow, or crossbow.

**SECTION 10.** 29.173 (2) (a) of the statutes is amended to read:

29.173 (2) (a) A resident deer hunting license authorizes the hunting of deer with a firearm, airgun, bow and arrow, or crossbow.

**SECTION 11.** 29.182 (3) (a) of the statutes is amended to read:

29.182 (3) (a) A resident elk hunting license authorizes a resident of this state to hunt elk with a firearm, airgun, bow and arrow, or crossbow.

**SECTION 12.** 29.182 (3) (b) of the statutes is amended to read:

29.182 (3) (b) A nonresident elk hunting license authorizes a nonresident of this state to hunt elk with a firearm, airgun, bow and arrow, or crossbow.

**SECTION 13.** 29.184 (3) (am) of the statutes is amended to read:

29.184 (3) (am) *Evidence of bear hunting.* The fact that a person is observing a bear while possessing a firearm or airgun is not sufficient evidence to prove that the person holding the firearm or airgun is hunting bear.

**SECTION 14.** 29.184 (3) (c) of the statutes is amended to read:

29.184 (3) (c) *Type of hunting authorized.* A Class A bear license authorizes hunting with a firearm, airgun, bow and arrow, or crossbow.

**SECTION 15.** 29.185 (6) (a) 1. of the statutes is amended to read:

29.185 (6) (a) 1. A firearm or airgun, as authorized under par. (b), a bow and arrow, or a crossbow.

**SECTION 16.** 29.185 (6) (b) of the statutes is amended to read:

29.185 (6) (b) *Firearms and ammunition.* A wolf harvesting license authorizes hunting with a rifle, a muzzle-loading firearm, a handgun, a shotgun that fires slugs or shotshells, an airgun, and any other firearm that is loaded with a single slug or ball. A wolf harvesting license authorizes hunting with shot that is larger than size BB.

**SECTION 17.** 29.193 (2) (cr) 4. of the statutes is amended to read:

29.193 (2) (cr) 4. A person holding a current resident or nonresident deer hunting license and a Class D permit may hunt deer of either sex with a firearm or airgun only during a special season established by the department that is open for hunting deer with firearms by disabled persons who hold a permit under this section.

**SECTION 18.** 29.193 (2) (d) of the statutes is amended to read:

29.193 (2) (d) *Assistance.* 1. A holder of a Class A or Class B permit may be accompanied by a person who is not eligible to apply for a Class A or Class B permit. The accompanying person may not hunt or carry a firearm, airgun, bow, or crossbow unless that person has been issued the appropriate approval to do so. The assistance rendered by an accompanying person who has not been issued the appropriate approval is limited to field dressing, tagging, and retrieving game for the permit holder.

2. A holder of a Class C permit shall be accompanied by a person who is not eligible to apply for a permit under this section. The accompanying person may not hunt or carry a firearm, airgun, bow, or crossbow unless the person has been issued the appropriate approval to do so. The assistance rendered by an accompanying person may include sighting the firearm, airgun, bow, or crossbow,

identifying the game, and field dressing, tagging, and retrieving game for the permit holder.

3. A holder of a Class D permit may use an adaptive device, as authorized by the department by rule, to facilitate the use of a firearm or an airgun and may be accompanied by a person who is not eligible to apply for a permit under this section. The accompanying person may not hunt or carry a firearm, airgun, bow, or crossbow unless that person has been issued the appropriate approval to do so. The assistance rendered by an accompanying person who has not been issued the appropriate approval is limited to field dressing, tagging, and retrieving game for the permit holder and any other assistance authorized by the department by rule.

**SECTION 19.** 29.211 (2) of the statutes is amended to read:

29.211 (2) **AUTHORIZATION.** A nonresident deer hunting license authorizes the hunting of deer with a firearm, airgun, bow and arrow, or crossbow.

**SECTION 20.** 29.311 (1) of the statutes is amended to read:

29.311 (1) No person may hunt waterfowl or coots with any firearm or airgun using any shotshell classified by the federal government as toxic or harmful to wildlife or the environment.

**SECTION 21.** 29.312 (2) of the statutes is amended to read:

29.312 (2) The department may not promulgate or enforce a rule that prohibits a person from sighting a firearm or airgun on land owned or leased by that person or a member of that person's immediate family during the 24-hour period prior to the opening date for hunting deer with firearms in any area where there is an open season for hunting deer with firearms.

**SECTION 22.** 29.314 (3) (a) of the statutes is amended to read:

29.314 (3) (a) *Prohibition.* No person may use or possess with intent to use a light for shining deer, elk, or bear while the person is hunting deer, elk, or bear or in possession of a firearm, airgun, bow and arrow, or crossbow.

**SECTION 23.** 29.324 (1) (b) of the statutes is amended to read:

29.324 (1) (b) "Group deer hunting party" means 2 or more hunters hunting in a group all using firearms or airguns, each of whom holds an individual license to hunt deer.

**SECTION 24.** 29.324 (1) (d) of the statutes is amended to read:

29.324 (1) (d) "Youth deer license" means a license that is issued by the department to a person who is under the age of 18 and that authorizes the hunting of deer with a firearm or airgun.

**SECTION 25.** 29.341 (1) of the statutes is amended to read:

29.341 (1) Any person who, while hunting any wild animal or bird, discharges a firearm, airgun, or arrow, and by that discharge injures or kills another person, shall immediately give his or her name and address to the injured person, render assistance to the injured person and obtain immediate medical or hospital care for the injured person, and immediately report the injury or death to the sheriff or police of the locality in which the shooting took place.

**SECTION 26.** 29.345 of the statutes is amended to read:

**29.345 Hunting, fishing or trapping accident; failure to report.** (1) Every person who has caused or been involved in an accident in which a person has been injured by discharge of a firearm, airgun, or arrow while hunting, fishing, or trapping, or inflicted an injury upon himself or herself with a firearm, airgun, or ~~with an~~ arrow while hunting, fishing, or trapping, shall render a report to the department at any of its field offices within 10 days after the injury unless the person is physically incapable of making the required report, in which event the person or persons involved in the accident shall designate an agent to file the report within the specified time.

(2) Any person who is involved in an accident with a firearm, airgun, or arrow while hunting, fishing, or trapping, and who fails to submit the report required by this section, shall forfeit not more than \$50. In addition, the court may revoke any license issued to the person under this chapter and may further provide that no license shall be issued to the person under this chapter for a fixed period of time specified by the court.

**SECTION 27.** 29.592 (1) (intro.) of the statutes is amended to read:

29.592 (1) (intro.) A person may hunt in this state without obtaining a certificate of accomplishment under s. 29.591 and may, while hunting, possess or control a firearm or an airgun if all of the following apply:

**SECTION 28.** 29.621 (4) (intro.) of the statutes is amended to read:

29.621 (4) **PROTECTION.** (intro.) Except as provided in s. 29.091 (1), no owner of a wildlife refuge, and no other person, may hunt or trap within the boundaries of any wildlife refuge or have in his or her possession or under his or her control in the wildlife refuge a gun, firearm, airgun, bow, or crossbow, unless the gun ~~or~~, firearm, or airgun is unloaded, the bow or crossbow is unstrung, and the gun, firearm, airgun, bow, or crossbow is enclosed within a carrying case. This subsection, as it relates to the possession or control of a loaded or unencased firearm or airgun, does not apply to any of the following:

**SECTION 29.** 29.927 (6g) of the statutes is amended to read:

29.927 (6g) Any lamp, light, gun, firearm, airgun, ammunition, bow, crossbow, bolt, or arrow used in viola-

tion of this chapter or s. 167.31 or any rules promulgated under s. 167.31.

**SECTION 30.** 29.971 (12) of the statutes is amended to read:

29.971 (12) In addition to any other penalty for violation of this chapter or any department order made under this chapter, the court may revoke any or all approvals granted under this chapter for a period of up to 3 years. If a person is convicted of reckless or highly negligent conduct in the operation or handling of a firearm, airgun, or bow and arrow in violation of s. 940.08, 940.24, or 941.20 and either death or bodily harm to another results from that violation, the court shall revoke every approval issued to that person under this chapter and shall provide a fixed period during which no new approval may be issued to the person. If no death or bodily harm to another results from the violation, the court may revoke any approval issued to that person under this chapter and may provide a fixed period during which no new approval may be issued to the person.

**SECTION 31.** 66.0409 (1) (a) of the statutes is amended to read:

66.0409 (1) (a) "Firearm" has the meaning given in s. 167.31 (1) (c) and includes an airgun, as defined in s. 29.001 (7).

**SECTION 32.** 167.31 (1) (am) of the statutes is created to read:

167.31 (1) (am) "Airgun" has the meaning given in s. 29.001 (7).

**SECTION 33.** 167.31 (2) (c) of the statutes is amended to read:

167.31 (2) (c) Except as provided in sub. (4), no person may load a firearm, other than a handgun, in a vehicle or discharge a firearm or airgun or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.

**SECTION 34.** 167.31 (2) (d) of the statutes, as affected by 2023 Wisconsin Act 51, is amended to read:

167.31 (2) (d) Except as provided in sub. (4) (a), (bg), (cg), (e), (fm), (g), and (k), no person may discharge a firearm or airgun 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 35.** 167.31 (3) (b) of the statutes is amended to read:

167.31 (3) (b) Except as provided in sub. (4), no person may load or discharge a firearm or airgun or shoot a bolt or an arrow from a bow or crossbow in or from an aircraft.

**SECTION 36.** 167.31 (3m) (a) of the statutes is amended to read:

167.31 (3m) (a) Except as provided in sub. (4) (b) and (h), no person may intentionally discharge a firearm or airgun in the direction of a transmission facility.

**SECTION 37.** 167.31 (4) (a) (intro.) of the statutes is amended to read:

167.31 (4) (a) (intro.) Subsections (2) and (3) do not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm or airgun in, on or from a vehicle, motorboat or aircraft or discharge a firearm or airgun from or across a highway or within 50 feet of the center of a roadway:

**SECTION 38.** 167.31 (4) (am) 1. of the statutes is amended to read:

167.31 (4) (am) 1. Subsections (2) (a), (c) and (d) and (3) (a) and (b) do not apply to a peace officer who, in the line of duty, loads or discharges a firearm or airgun in, on or from a vehicle, motorboat or aircraft or discharges a firearm or airgun from or across a highway or within 50 feet of the center of a roadway.

**SECTION 39.** 167.31 (4) (at) of the statutes is amended to read:

167.31 (4) (at) Subsections (2) (c) and (d) and (3) (b) do not apply to the discharge of a firearm or airgun if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in s. 939.45.

**SECTION 40.** 167.31 (4) (cg) (intro.) of the statutes is amended to read:

167.31 (4) (cg) (intro.) A holder of a Class A or Class B permit under s. 29.193 (2) who is hunting from a stationary vehicle may load and discharge a firearm or airgun or shoot a bolt or an arrow within 50 feet of the center of a roadway if all of the following apply:

**SECTION 41.** 167.31 (4) (cg) 4. of the statutes is amended to read:

167.31 (4) (cg) 4. The holder of the permit has obtained permission from any person who is the owner or lessee of private property across or on to which the holder of the permit intends to discharge a firearm or airgun or shoot a bolt or an arrow.

**SECTION 42.** 167.31 (4) (cg) 6. of the statutes is amended to read:

167.31 (4) (cg) 6. The holder of the permit discharges the firearm or airgun or shoots the bolt or arrow away from and not across or parallel to the roadway.

**SECTION 43.** 167.31 (4) (e) of the statutes is amended to read:

167.31 (4) (e) Subsection (2) (d) does not apply to a person who is legally hunting small game with a muzzle-loading firearm or with a shotgun firearm or airgun loaded with shotshell or chilled shot number BB or smaller, if the surface of the highway or roadway is anything other than concrete or blacktop.

**SECTION 44.** 167.31 (4) (f) of the statutes is amended to read:

167.31 (4) (f) Subsection (2) (d) does not prohibit a person from possessing a loaded firearm or airgun within 50 feet of the center of a roadway if the person does not violate sub. (2) (b) or (c).

**SECTION 45.** 167.31 (4) (fm) of the statutes is amended to read:

167.31 (4) (fm) Subsection (2) (d) does not prohibit the department of natural resources, acting under s. 29.885, or an agent of a city, village, town, or county authorized by the department of natural resources under s. 29.885 from discharging a firearm or airgun within 50 feet of the center of a roadway in order to dispose of a beaver or muskrat that is causing damage to a highway in which the roadway is located if the discharge does not pose a risk to public safety.

**SECTION 46.** 167.31 (4) (h) (intro.) of the statutes is amended to read:

167.31 (4) (h) (intro.) Subsection (3m) does not apply to any of the following who discharge a firearm or airgun in the direction of a transmission facility:

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**SECTION 47. Nonstatutory provisions.**

(1) The department of natural resources may use the procedure under s. 227.24 to promulgate emergency rules under s. 29.014 (1u) (b) for the period before the date on which permanent rules under s. 29.014 (1u) (b) take effect. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until the permanent rules take effect. Notwithstanding s. 227.24 (1) (a) and (3), the department of natural resources is not required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for rules promulgated under this subsection.