

1 **AN ACT** to renumber 941.23, 941.235 (2) and 941.29 (10); to amend 23.29 (23),
 2 23.293 (19), 23.33 (4) (c) 1., 23.33 (12) (b), 23.51 (3), 30.64, 165.83 (1) (e), 165.85
 3 (2) (g), 340.01 (3) (b), 341.17 (9) (c) 2., 343.235 (3) (a), 343.237 (4), 350.02 (3m),
 4 350.17 (2), 939.22 (22), 940.20 (2), 941.20 (1m) (b), 941.2965 (3) (a), 941.298 (3)
 5 (a), 941.299 (2) (a), 941.31 (2) (c), 948.605 (2) (b) 6., 948.605 (3) (b) 4. and 948.61
 6 (3) (c); and to create 165.83 (1) (e) 2., 165.85 (2) (g) 2., 175.41, 340.01 (19c),
 7 340.01 (19e), 341.17 (4) (h), 939.22 (12m), 939.22 (37), 941.20 (3) (b) 3., 941.23
 8 (2), 941.235 (2) (b), 941.237 (3m), 941.26 (4) (cm), 941.29 (10) (b), 941.295 (2m)
 9 and 948.55 (4m) of the statutes; relating to: conservation wardens employed by the
 10 great lakes Indian fish and wildlife commission.

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

MS
A

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill, developed by the joint legislative council's special committee on state-tribal relations, extends the application of a broad range of statutes related to law enforcement to conservation wardens employed by the great lakes Indian fish and wildlife commission (GLIFWC) and authorizes GLIFWC wardens to aid or assist a Wisconsin peace officer or to make an arrest under specified circumstances.

for a violation of state law

BACKGROUND - HEADING

In the 1970s and 1980s, litigation in federal court sought to determine the extent of rights for the harvest of natural resources retained by the Chippewa Indian bands when the bands ceded territory to the United States in treaties in 1837 and 1842. In a series of orders, the court affirmed the bands' continuing rights to hunt, fish, and gather on off-reservation public lands and waters throughout the ceded territories in northern Wisconsin. Among other things, the court approved the Chippewa bands' proposal to adopt an off-reservation conservation code (off-reservation code) governing their members' exercise of those rights within the ceded territory but not on any Chippewa reservation, and to

LPS:
Please
fix
format
to conform
to JLC
pref note
comps.

* form an inter-tribal agency to enforce that code. GLIFWC is the agency the Chippewa bands created for this purpose.

An incident in which a GLIFWC warden working off-reservation detained a non-Indian person for a state firearms violation and delivered the individual to the county sheriff called into question the authority of the warden to detain the individual, as well as the legality of other aspects of the warden's behavior, such as going armed in the uniform of a law enforcement officer in a vehicle with equipment, such as lights and siren, that are generally illegal.

This case brought to attention that much of what GLIFWC wardens do is not contemplated under the statutes and that, in fact, the statutes could be read as prohibiting GLIFWC wardens from doing many things that the federal court authorized them to do. Similarly, many statutes that serve to protect the physical safety of law enforcement officers and others that serve to protect the interests of the public do not apply to GLIFWC wardens. These statutes *do* apply to conservation wardens employed by the department of natural resources (DNR).

THE BILL

HEADING

The bill is intended to accomplish two goals: first, to facilitate the work of GLIFWC and its wardens in enforcing the off-reservation code; and second, to enable GLIFWC wardens to assist state and local law enforcement agencies *under certain circumstances*.

Sub-head

→ **Facilitating the Work of GLIFWC Wardens**

To facilitate the work of GLIFWC wardens, the bill applies many provisions of the criminal code and the conservation and motor vehicle statutes to them. In general, the bill does the following: plain

1. Applies statute regarding the protection of officers or interference with law enforcement to all GLIFWC wardens. Examples of the statutes treated in this manner are s. 940.20 (2), stats., battery to a law enforcement officer, s. 941.21, stats., disarming a peace officer, and s. 946.41, stats., resisting or obstructing an officer. The bill also applies a number of other, miscellaneous statutes to all GLIFWC wardens, such as the requirement that a peace officer provide first aid to a person in custody (s. 940.291, stats.), communicable diseases (ch. 252, stats.) and the exception for peace officers to the prohibition on shining animals (s. 29.314, stats.). The bill also applies to all GLIFWC wardens the exceptions enjoyed by peace officers to various aspects of the motor vehicle code, including exceptions to various rules of the road and various restrictions on vehicle equipment.



* 2. Applies most statute regarding the possession or use of firearms and other weapons by peace officers to GLIFWC warden who meet state certification standards. Examples of statutes treated in this manner are exceptions for peace officers to prohibitions against carrying concealed weapons (s. 941.23, stats) and the use of pepper spray (s. 941.26). The bill does not apply statutes authorizing the possession or use of explosives or particularly dangerous weapons to any GLIFWC warden. Examples of statutes in this category are exceptions for peace officers to prohibitions against the possession or use of machine guns, short-barreled shotguns and rifles, explosives, and other weapons.

plain (circled)
plain (circled)
statute (circled)
the Department of Justice (circled)

The bill also authorizes GLIFWC and its wardens to use the transaction information for management of enforcement (TIME) system if GLIFWC agrees to contribute information in its possession to DOJ for addition to the TIME system. (The TIME system allows officers in the field to access information regarding criminal investigations, suspected criminals, outstanding warrants, etc., as well as drivers' license and vehicle registration information, using computers installed in their patrol vehicles.)

The bill applies the statutes administered by the law enforcement standards board (LESB) to GLIFWC wardens who agree to accept the duties of law enforcement officers under the laws of this state, which makes a GLIFWC warden subject to the rules and certification procedures of the LESB, and which is a prerequisite for exercising the authority to make arrests for violations of state law and to render aid and assistance to state peace officers, as created by this bill.

The bill authorizes GLIFWC to receive from the department of transportation (DOT) monthly compilations of vehicle registration information, drivers license and identification card photographs, and other identifying information in the same manner that sheriffs and chiefs of local police departments, among others, currently receive this information.

Subhead → **Authority to Arrest and Assist**

The bill authorizes a GLIFWC warden to make an arrest for a violation of state law if the warden is responding to either: (a) an emergency situation that poses a significant threat to life or of bodily harm; or (b) acts that the warden believes, on reasonable grounds, constitute a felony. The bill also authorizes a GLIFWC warden to render aid or assistance to a Wisconsin peace officer in an emergency or at the request of the Wisconsin peace officer. A GLIFWC warden may take these actions only if all of the following conditions are met:

- (a) The warden is on duty and on official business.

2. ~~(b)~~ The warden meets the training standards for state and local law enforcement officers and has agreed to accept the duties of law enforcement officers under the laws of this state.
3. ~~(c)~~ GLIFWC has adopted and implemented written policies regarding making felony arrests under state law and rendering aid or assistance to state or local officers.
4. ~~(d)~~ GLIFWC maintains liability insurance that does all of the following:
 - (a) ~~(i)~~ Covers GLIFWC's liability up to a limit of not less than \$2 million for the acts of its wardens acting under this authority.
 - (b) ~~(ii)~~ Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to that limit.

The bill also authorizes GLIFWC wardens to engage in fresh pursuit in Wisconsin beyond the ceded territory under specified circumstances.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 941.23, 941.235 (2) and 941.29 (10); *to renumber and*
2 *amend* 165.83 (1) (e) and 165.85 (2) (g); *to amend* 23.29 (23), 23.293 (19), 23.33
3 (4) (c) 1., 23.33 (12) (b), 23.51 (3), 30.64, 340.01 (3) (b), 341.17 (9) (c) 2., 343.235
4 (3) (a), 343.237 (4), 350.02 (3m), 350.17 (2), 939.22 (22), 940.20 (2), 941.20 (1m)
5 (b), 941.2965 (3) (a), 941.298 (3) (a), 941.299 (2) (a), 941.31 (2) (c), 948.605 (2)
6 (b) 6., 948.605 (3) (b) 4. and 948.61 (3) (c); and *to create* 165.83 (1) (e) 2., 165.85
7 (2) (g) 2., 175.41, 340.01 (8t), 340.01 (8u), 341.17 (4) (h), 939.22 (5), 939.22 (37),
8 941.20 (3) (b) 3., 941.23 (2), 941.235 (2) (b), 941.237 (3m), 941.26 (4) (cm), 941.29
9 (10) (bm), 941.295 (2m) and 948.55 (4m) of the statutes; **relating to:**

1 conservation wardens employed by the Great Lakes Indian Fish and Wildlife
2 Commission.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill, developed by the Joint Legislative Council's special committee on state-tribal relations, extends the application of a broad range of statutes related to law enforcement to conservation wardens employed by the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) and authorizes GLIFWC wardens to aid or assist a Wisconsin peace officer or to make an arrest for a violation of state law under specified circumstances.

*referred to in
the bill as
"commission
wardens")*

BACKGROUND

In the 1970s and 1980s, litigation in federal court sought to determine the extent of rights for the harvest of natural resources retained by the Chippewa Indian bands when the bands ceded territory to the United States in treaties in 1837 and 1842. In a series of orders, the court affirmed the bands' continuing rights to hunt, fish, and gather on off-reservation public lands and waters throughout the ceded territories in northern Wisconsin. Among other things, the court approved the Chippewa bands' proposal to adopt an off-reservation conservation code (off-reservation code) governing their members' exercise of those rights within the ceded territory but not on any Chippewa reservation, and to form an intertribal agency to enforce that code. GLIFWC is the agency the Chippewa bands created for this purpose.

An incident in which a GLIFWC warden working off-reservation detained a non-Indian person for a state firearms violation and delivered the individual to the county sheriff called into question the authority of the warden to detain the individual, as well as the legality of other aspects of the warden's behavior, such as going armed in the uniform of a law enforcement officer in a vehicle with equipment, such as lights and siren.

This case brought to attention that much of what GLIFWC wardens do is not contemplated under the statutes and that, in fact, the statutes could be read as prohibiting GLIFWC wardens from doing many things that the federal court authorized them to do. Similarly, many statutes that serve to protect the physical safety of law enforcement officers and others that serve to protect the interests of the public do not apply to GLIFWC wardens. These statutes *do* apply to conservation wardens employed by the Department of Natural Resources (DNR).

THE BILL

The bill is intended to accomplish two goals: first, to facilitate the work of GLIFWC and its wardens in enforcing the off-reservation code; and second, to enable GLIFWC wardens to assist state and local law enforcement agencies under certain circumstances.

Facilitating the Work of GLIFWC Wardens

To facilitate the work of GLIFWC wardens, the bill applies many provisions of the criminal code and the conservation and motor vehicle statutes to them. In general, the bill does the following:

1. Applies statutes regarding the protection of officers or interference with law enforcement to all GLIFWC wardens. Examples of the statutes treated in this manner are s. 940.20 (2), stats., battery to a law enforcement officer, s. 941.21, stats., disarming a peace officer, and s. 946.41, stats., resisting or obstructing an officer. The bill also applies a number of other, miscellaneous statutes to all GLIFWC wardens, such as the requirement that a peace officer provide first aid to a person in custody (s. 940.291, stats.), communicable diseases (ch. 252, stats.), and the exception for peace officers to the prohibition on shining animals (s. 29.314, stats.). The bill also applies to all GLIFWC wardens the exceptions enjoyed by peace officers to various aspects of the motor vehicle code, including exceptions to various rules of the road and various restrictions on vehicle equipment.

2. Applies most statutes regarding the possession or use of firearms and other weapons by peace officers to GLIFWC wardens who meet state certification standards. Examples of statutes treated in this manner are exceptions for peace officers to prohibitions against carrying concealed weapons (s. 941.23, stats.) and the use of pepper spray (s. 941.26, stats.). The bill does not apply statutes authorizing the possession or use of explosives or particularly dangerous weapons to any GLIFWC warden. Examples of statutes in this category are exceptions for peace officers to prohibitions against the possession or use of machine guns, short-barreled shotguns and rifles, explosives, and other weapons.

3. Authorizes GLIFWC and its wardens to use the transaction information for management of enforcement (TIME) system if GLIFWC agrees to contribute information in its possession to the Department of Justice (DOJ) for addition to the TIME system. The TIME system allows officers in the field to access information regarding criminal investigations, suspected criminals, and outstanding warrants, as well as drivers' license and vehicle registration information, using computers installed in their patrol vehicles.

4. Applies the statutes administered by the law enforcement standards board (LESB) to GLIFWC wardens who agree to accept the duties of law enforcement officers under the laws of this state, which makes a GLIFWC warden subject to the rules and certification procedures of the LESB, and which is a prerequisite for exercising the authority, as created by this bill, to make arrests for violations of state law and to render aid and assistance to state peace officers.

5. Authorizes GLIFWC to receive from the Department of Transportation (DOT) monthly compilations of vehicle registration information, drivers' license and identification card photographs, and other identifying information in the same manner that sheriffs and chiefs of local police departments, among others, currently receive this information.

Authority to Arrest and Assist

The bill authorizes a GLIFWC warden to make an arrest for a violation of state law if the warden is responding to either: (a) an emergency situation that poses a significant threat to life or of bodily harm; or (b) acts that the warden believes, on reasonable grounds, constitute a felony. The bill also authorizes a GLIFWC warden to render aid or assistance to a Wisconsin peace officer in an emergency or at the request of the Wisconsin peace officer. A GLIFWC warden may take these actions only if all of the following conditions are met:

1. The warden is on duty and on official business.

2. The warden meets the training standards for state and local law enforcement officers and has agreed to accept the duties of law enforcement officers under the laws of this state.

3. GLIFWC has adopted and implemented written policies regarding making felony arrests under state law and rendering aid or assistance to state or local officers.

4. GLIFWC maintains liability insurance that does all of the following:

(a) Covers GLIFWC's liability up to a limit of not less than \$2 million for the acts of its wardens acting under this authority.

(b) Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to that limit.

The bill also authorizes GLIFWC wardens to engage in fresh pursuit in Wisconsin beyond the ceded territory under specified circumstances.

1 **SECTION 1.** 23.29 (23) of the statutes is amended to read:

2 **23.29 (23) ENFORCEMENT.** The department and its agents, the department of
3 justice, and peace officers, as defined under s. 939.22 (22), but not including
4 commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated
5 state natural areas in the geographic jurisdiction to enforce articles of dedication and
6 restrictions authorized under sub. (21).

7 **SECTION 2.** 23.293 (19) of the statutes is amended to read:

8 **23.293 (19) ENFORCEMENT.** The department and its agents, the department of
9 justice, and peace officers, as defined under s. 939.22 (22), but not including
10 commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated
11 ice age trail areas.

NOTE: SECTIONS 1 and 2 exclude GLIFWC wardens from the list of entities having enforcement authority for purposes of dedicated state natural areas and ice age trail areas.

12 **SECTION 3.** 23.33 (4) (c) 1. of the statutes is amended to read:

13 **23.33 (4) (c) 1.** Paragraphs (a) and (b) do not apply to the operator of an
14 all-terrain vehicle owned by a municipality, state agency, or public utility, or by the
15 Great Lakes Indian Fish and Wildlife Commission while the operator is engaged in
16 an emergency or in the operation of an all-terrain vehicle directly related to the

1 functions of the municipality, state agency, or public utility, ^{the} or of Great Lakes Indian
2 Fish and Wildlife Commission if safety does not require strict adherence to these
3 restrictions.

4 SECTION 4. 23.33 (12) (b) of the statutes is amended to read:

5 23.33 (12) (b) No operator of an all-terrain vehicle may refuse to stop after
6 being requested or signaled to do so by a law enforcement officer or a commission
7 warden, as defined in s. 939.22 (5).

NOTE: SECTIONS 3 and 4 authorize GLIFWC wardens to operate all-terrain vehicles (ATVs) on highways, under specified circumstances, and require other ATV operators to stop when signaled by a GLIFWC warden.

8 SECTION 5. 23.51 (3) of the statutes is amended to read:

9 23.51 (3) "Enforcing officer" means peace officer as defined by in s. 939.22 (22),
10 but not including a commission warden, as defined in s. 939.22 (5), or means a person
11 who has authority to act pursuant to a specific statute.

NOTE: Excludes GLIFWC wardens from the definition of "enforcing officer" for purposes of forfeiture procedures for the enforcement of state conservation laws.

12 SECTION 6. 30.64 of the statutes is amended to read:

13 30.64 **Patrol boats.** (1) The operator of ~~a~~ duly an authorized patrol boat,
14 including a commission warden, as defined in s. 939.22 (5), when responding to an
15 emergency call or when in pursuit of an actual or suspected violator of the law, need
16 not comply with state law or local ordinances fixing maximum speed limits when a
17 siren is being sounded and if due regard is given to the safety of other persons in the
18 vicinity. If a light is used in conjunction with a siren it shall be the oscillating or
19 flashing type and be fitted with a blue lens.

20 (2) Upon the approach of ~~a~~ duly an authorized patrol boat, including a patrol
21 boat operated by a commission warden, as defined in s. 939.22 (5), giving an audio
22 or visual signal the operator of a boat shall reduce the boat speed to that speed

1 necessary to maintain steerage control and yield the right-of-way to the patrol boat
2 until it has passed.

3 (3) No person operating a boat may refuse to stop after being requested or
4 signaled to do so by a law enforcement officer or a commission warden, as defined in
5 s. 939.22 (5).

NOTE: Authorizes GLIFWC wardens to operate patrol boats in excess of speed limits, under specified circumstances, and requires other boat operators to yield to GLIFWC patrol boats and to stop when signaled by a GLIFWC warden.

6 SECTION 7. 165.83 (1) (e) of the statutes is renumbered 165.83 (1) (e) (intro.) and
7 amended to read:

8 165.83 (1) (e) (intro.) "Tribal law enforcement agency" means ~~an~~ any of the
9 following:

10 1. An agency of a tribe that is established for the purpose of preventing and
11 detecting crime on the reservation or trust lands of the tribe and enforcing the tribe's
12 laws or ordinances, that employs full time one or more persons who are granted law
13 enforcement and arrest powers under s. 165.92 (2) (a), and that was created by a tribe
14 that agrees that its law enforcement agency will perform the duties required of the
15 agency under this section and s. 165.84.

16 SECTION 8. 165.83 (1) (e) 2. of the statutes is created to read:

17 165.83 (1) (e) 2. The Great Lakes Indian Fish and Wildlife Commission, if the
18 Great Lakes Indian Fish and Wildlife Commission agrees to perform the duties
19 required under this section and s. 165.84.

NOTE: The definition change made by SECTIONS 7 and 8 gives GLIFWC and its wardens access to the TIME system in exchange for GLIFWC accepting the duty to provide certain information in its possession to the DOJ for inclusion in the TIME system.

20 SECTION 9. 165.85 (2) (g) of the statutes is renumbered 165.85 (2) (g) (intro.)
21 and amended to read:

1 165.85 (2) (g) (intro.) “Tribal law enforcement officer” means ~~a~~ any of the
2 following:

3 1. A person who is employed by a tribe for the purpose of detecting and
4 preventing crime and enforcing the tribe’s laws or ordinances, who is authorized by
5 the tribe to make arrests of Indian persons for violations of the tribe’s laws or
6 ordinances, and who agrees to accept the duties of law enforcement officers under the
7 laws of this state.

8 **SECTION 10.** 165.85 (2) (g) 2. of the statutes is created to read:

9 165.85 (2) (g) 2. A conservation warden employed by the Great Lakes Indian
10 Fish and Wildlife Commission who agrees to accept the duties of law enforcement
11 officers under the laws of this state.

NOTE: The definition change made by SECTIONS 9 and 10 subjects GLIFWC
wardens who agree to accept the duties of law enforcement officers to the rules and
certification procedures of the LESB, which is a prerequisite for exercising the authority
to make arrests for violations of state law and to render aid or assistance under s. 175.41,
as created by ~~this draft~~ *+ the bill.*

12 **SECTION 11.** 175.41 of the statutes is created to read:

13 **175.41 Arrest and assistance; wardens employed by the Great Lakes**
14 **Indian Fish and Wildlife Commission. (1)** In this section:

15 (a) “Ceded territory” means the territory in Wisconsin ceded by the Chippewa
16 Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842,
17 7 Stat. 591.

18 (b) “Commission” means the Great Lakes Indian Fish and Wildlife
19 Commission.

20 (c) “Commission warden” means a conservation warden employed by the
21 commission.

1 (2) For purposes of civil and criminal liability, a commission warden may, when
2 in fresh pursuit, follow anywhere in the state outside the ceded territory and arrest
3 any of the following:

4 (a) A Chippewa tribal member for violation of the Chippewa off-reservation
5 conservation code, if the conditions of sub. (3) (a) and (e) are met.

6 (b) Any person for violation of the laws of this state, if the conditions of sub. (3)
7 (a) to (e) are met.

8 (3) Within the ceded territory, a commission warden may arrest a person for
9 violation of state law or provide aid or assistance to a Wisconsin peace officer if all
10 of the following criteria are met:

11 (a) The commission warden is on duty and on official business.

12 (b) Any of the following applies:

13 1. The commission warden is responding to any of the following:

14 a. An emergency situation that poses a significant threat to life or of bodily
15 harm.

16 b. Acts that the commission warden believes, on reasonable grounds, constitute
17 a felony.

18 2. The commission warden is rendering aid or assistance to a Wisconsin peace
19 officer in an emergency or at the request of the Wisconsin peace officer.

20 (c) The commission warden meets the requirements of s. 165.85 (4) (b) 1., (bn)
21 1., and (c) and has agreed to accept the duties of a law enforcement officer under the
22 laws of this state.

23 (d) The commission has adopted and implemented written policies regarding
24 making arrests and rendering aid or assistance under this subsection, including a

1 policy on notification to and cooperation with the law enforcement agency of the
2 jurisdiction in which such arrests are made.

3 (e) The commission maintains insurance, and provides evidence of the
4 insurance to the department of justice, that does all of the following:

5 1. Covers the commission for general liability for negligent acts of the
6 commission wardens and liability for errors and omissions under sub. (4).

7 2. Has a limit of coverage of not less than \$2,000,000 for any claim.

8 3. Provides that the insurer, in defending a claim against the policy, may not
9 raise the defense of sovereign immunity of the insured, up to the limits of the policy.

10 (4) Except as otherwise provided in an agreement between the commission and
11 the state or a subdivision of the state, the commission is liable for all acts of a
12 commission warden while acting under sub. (2) or (3), and neither the state nor any
13 political subdivision of the state may be held liable for any action of a commission
14 warden taken under the authority of sub. (2) or (3). For purposes of civil and criminal
15 liability, a commission warden acting under sub. (2) or (3) is considered to be acting
16 in an official capacity.

17 **SECTION 12.** 340.01 (3) (b) of the statutes is amended to read:

18 340.01 (3) (b) Conservation wardens' vehicles ~~or~~, foresters' trucks, or vehicles
19 used by commission wardens, whether publicly or privately owned.

NOTE: Adds GLIFWC wardens' vehicles to the definition of "authorized emergency
vehicle."

20 **SECTION 13.** 340.01 (8t) of the statutes is created to read:

21 340.01 (8t) "Commission" means the Great Lakes Indian Fish and Wildlife
22 Commission.

23 **SECTION 14.** 340.01 (8u) of the statutes is created to read:

1 340.01 (8u) "Commission warden" means a conservation warden employed by
2 the Commission.

NOTE: SECTIONS 13 and 14 define "the commission" and "commission warden" for purposes of the statutes relating to motor vehicles and all-terrain vehicles, except ch. 350, stats.

3 **SECTION 15.** 341.17 (4) (h) of the statutes is created to read:

4 341.17 (4) (h) To the commission, one copy of each automobile registration list
5 under sub. (1).

6 **SECTION 16.** 341.17 (9) (c) 2. of the statutes is amended to read:

7 341.17 (9) (c) 2. A law enforcement agency, a state authority or, a federal
8 governmental agency, or the commission to perform a legally authorized function.

9 **SECTION 17.** 343.235 (3) (a) of the statutes is amended to read:

10 343.235 (3) (a) A law enforcement agency, a state authority or, a federal
11 governmental agency, or the commission to perform a legally authorized function.

12 **SECTION 18.** 343.237 (4) of the statutes is amended to read:

13 343.237 (4) If a law enforcement agency of another state or the commission
14 makes a request meeting all the requirements specified for a request by a Wisconsin
15 law enforcement agency or a federal law enforcement agency under sub. (3), the
16 department shall comply with the request if all of the following apply:

17 (a) The law enforcement agency of the other state or the commission agrees to
18 comply with all of the requirements under this section.

19 (b) The other state or the commission allows Wisconsin law enforcement
20 agencies similar or greater access to similar information from that state or the
21 commission.

NOTE: SECTIONS 15 to 18 give GLIFWC access to DOT records regarding vehicle registrations, and to personal identifying information and drivers' license and identification card photographs to the same extent that current law gives access to law enforcement agencies and others.

Much of this information is accessible through the TIME system, to which GLIFWC is given access by SECTIONS 7 and 8 of this bill. However, DOJ may not release the information via the TIME system to entities that do not have independent authority to receive the information directly from DOT, which these provisions provide.

1 **SECTION 19.** 350.02 (3m) of the statutes is amended to read:

2 350.02 (3m) A law enforcement officer ^{Commissioner warden as def.} or a conservation warden employed by
3 the Great Lakes Indian Fish and Wildlife Commission may operate a snowmobile on
4 a highway in performance of his or her official duties if the snowmobile is equipped
5 with a light that is red or blue or a combination thereof and that is flashing,
6 oscillating, or rotating.

7 **SECTION 20.** 350.17 (2) of the statutes is amended to read:

8 350.17 (2) No person operating a snowmobile shall refuse to stop after being [?]
9 requested or signaled to do so by a law enforcement officer or a conservation warden
10 employed by the Great Lakes ^{Indian} Fish and Wildlife Commission. ^{def.}

NOTE: SECTION 19 authorizes GLIFWC wardens to operate snowmobiles on highways, under specified circumstances, and SECTION 20 requires other snowmobile operators to stop when signaled by a GLIFWC warden.

11 **SECTION 21.** 939.22 (5) of the statutes is created to read:

12 939.22 (5) "Commission warden" means a conservation warden employed by
13 the Great Lakes Indian Fish and Wildlife Commission.

14 **SECTION 22.** 939.22 (22) of the statutes is amended to read:

15 939.22 (22) "Peace officer" means any person vested by law with a duty to
16 maintain public order or to make arrests for crime, whether that duty extends to all
17 crimes or is limited to specific crimes. "Peace officer" includes a commission warden.

18 **SECTION 23.** 939.22 (37) of the statutes is created to read:

19 939.22 (37) "State-certified commission warden" means a commission warden
20 who meets the requirements of s. 165.85 (4) (b) 1., (bn) 1., and (c) and has agreed to
21 accept the duties of a law enforcement officer under the laws of this state.

NOTE: SECTIONS 21 to 23 define "commission warden" and "state-certified commission warden" for purposes of the criminal code and amend the definition of "peace officer" to include GLIFWC wardens.

1 **SECTION 24.** 940.20 (2) of the statutes is amended to read:

2 940.20 (2) BATTERY TO LAW ENFORCEMENT OFFICERS AND, FIRE FIGHTERS, AND GREAT
3 LAKES INDIAN FISH AND WILDLIFE COMMISSION WARDENS. Whoever intentionally
4 causes bodily harm to a law enforcement officer or fire fighter, as those terms are
5 defined in s. 102.475 (8) (b) and (c), or to a commission warden, acting in an official
6 capacity and the person knows or has reason to know that the victim is a law
7 enforcement officer ~~or~~, fire fighter, or commission warden, by an act done without the
8 consent of the person so injured, is guilty of a Class H felony.

NOTE: Makes battery to a GLIFWC warden a Class H felony, as is battery to a law enforcement officer or fire fighter under current law.

9 **SECTION 25.** 941.20 (1m) (b) of the statutes is amended to read:

10 941.20 (1m) (b) Whoever intentionally points a firearm at or towards a law
11 enforcement officer, a fire fighter, an emergency medical technician, a first
12 responder, ~~or~~ an ambulance driver, or a commission warden who is acting in an
13 official capacity and who the person knows or has reason to know is a law
14 enforcement officer, a fire fighter, an emergency medical technician, a first
15 responder, ~~or~~ an ambulance driver, or a commission warden is guilty of a Class H
16 felony.

NOTE: Makes pointing a firearm at a GLIFWC warden a Class H felony, as is pointing a firearm at a law enforcement officer or certain others under current law.

17 **SECTION 26.** 941.20 (3) (b) 3. of the statutes is created to read:

18 941.20 (3) (b) 3. Notwithstanding subd. 1. a. and s. 939.22 (22), par. (a) applies
19 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the discharge of a firearm from a vehicle is extended only to state-certified GLIFWC wardens.

1 **SECTION 27.** 941.23 of the statutes is renumbered 941.23 (1).

2 **SECTION 28.** 941.23 (2) of the statutes is created to read:

3 941.23 (2) Notwithstanding s. 939.22 (22), sub. (1) applies to a commission
4 warden who is not a state-certified commission warden.

NOTE: SECTIONS 27 and 28 provide that the peace officers' exemption from the prohibition on carrying a concealed weapon is extended only to state-certified GLIFWC wardens.

5 **SECTION 29.** 941.235 (2) of the statutes is renumbered 941.235 (2) (a).

6 **SECTION 30.** 941.235 (2) (b) of the statutes is created to read:

7 941.235 (2) (b) Notwithstanding par. (a) and s. 939.22 (22), sub. (1) applies to
8 a commission warden who is not a state-certified commission warden.

NOTE: SECTIONS 29 and 30 provide that the peace officers' exemption from the prohibition on carrying a firearm in a public building is extended only to state-certified GLIFWC wardens.

9 **SECTION 31.** 941.237 (3m) of the statutes is created to read:

10 941.237 (3m) Notwithstanding sub. (3) (a) and s. 939.22 (22), sub. (2) applies
11 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm where alcoholic beverages are sold is extended only to state-certified GLIFWC wardens.

12 **SECTION 32.** 941.26 (4) (cm) of the statutes is created to read:

13 941.26 (4) (cm) Notwithstanding par. (c) 2. and s. 939.22 (22), par. (b) applies
14 to a commission warden who is not a state-certified commission warden.

pepper spray
NOTE: Provides that the peace officers' exemption from the prohibition on the use of ~~an electric weapon~~ is extended only to state-certified GLIFWC wardens.

15 **SECTION 33.** 941.29 (10) of the statutes is renumbered 941.29 (10) (am).

16 **SECTION 34.** 941.29 (10) (bm) of the statutes is created to read:

17 941.29 (10) (bm) Notwithstanding par. (am) 1. and s. 939.22 (22), the
18 prohibition against possession of a firearm under this section applies to a person

1 specified in sub. (1) (f) who is a commission warden but who is not a state-certified
2 commission warden.

NOTE: SECTIONS 33 and 34 provide that the peace officers' exemption from the prohibition on the possession of a firearm by a person subject to a domestic abuse or child abuse injunction is extended only to state-certified GLIFWC wardens.

3 SECTION 35. 941.295 (2m) of the statutes is created to read:
4 941.295 (2m) Notwithstanding sub. (2) (a) and s. 939.22 (22), sub. (1) applies
5 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of an electric weapon is extended only to state-certified GLIFWC wardens.

6 SECTION 36. 941.2965 (3) (a) of the statutes is amended to read:
7 941.2965 (3) (a) Any peace officer acting in the discharge of his or her official
8 duties. Notwithstanding s. 939.22 (22), this paragraph does not apply to a
9 commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from prohibitions regarding the possession or display of facsimile firearms.

10 SECTION 37. 941.298 (3) (a) of the statutes is amended to read:
11 941.298 (3) (a) Any peace officer who is acting in compliance with the written
12 policies of the officer's department or agency. This paragraph does not apply to any
13 officer whose department or agency does not have such a policy. Notwithstanding
14 s. 939.22 (22), this paragraph does not apply to a commission warden.

X
NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the sale, delivery, or possession ~~or display~~ of a firearms silencer.

15 SECTION 38. 941.299 (2) (a) of the statutes is amended to read:
16 941.299 (2) (a) Intentionally direct a beam of light from a laser pointer at any
17 part of the body of a correctional officer ~~or~~, law enforcement officer, or commission
18 warden without the officer's consent, if the person knows or has reason to know that

1 the victim is a correctional officer ~~or~~, law enforcement officer, or commission warden
2 who is acting in an official capacity.

NOTE: Prohibits pointing a laser pointer at a GLIFWC warden, as current law prohibits pointing a laser pointer at a law enforcement or correctional officer.

3 SECTION 39. 941.31 (2) (c) of the statutes is amended to read:

4 941.31 (2) (c) This subsection does not apply to the transportation, possession,
5 use, or transfer of any improvised explosive device by any armed forces or national
6 guard personnel or to any peace officer in the line of duty or as part of a duty-related
7 function or exercise. The restriction on transportation in this subsection does not
8 apply to common carriers. Notwithstanding s. 939.22 (22), this paragraph does not
9 apply to a commission warden.

X NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the transportation, possession, use, or transfer ~~or display~~ of an improvised explosive device.

10 SECTION 40. 948.55 (4m) of the statutes is created to read:

11 948.55 (4m) Notwithstanding sub. (4) (d) and s. 939.22 (22), subs. (2) and (3)
12 apply to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' limited exemption from the prohibition on allowing a child to gain access to a loaded firearm is extended only to state-certified GLIFWC wardens.

13 SECTION 41. 948.605 (2) (b) 6. of the statutes is amended to read:

14 948.605 (2) (b) 6. By a law enforcement officer or state-certified commission
15 warden acting in his or her official capacity; or

16 SECTION 42. 948.605 (3) (b) 4. of the statutes is amended to read:

17 948.605 (3) (b) 4. By a law enforcement officer or state-certified commission
18 warden acting in his or her official capacity.

19 SECTION 43. 948.61 (3) (c) of the statutes is amended to read:

20 948.61 (3) (c) Is a law enforcement officer or state-certified commission warden
21 acting in the discharge of his or her official duties.

NOTE: SECTIONS 41 to 43 extend to state-certified GLIFWC wardens the exception to the prohibitions on possession or discharge of a firearm and possession of other dangerous weapons in a school zone that current law gives to law enforcement officers.

1

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3096/P2

CMH:wlj:jl

↑
Stays

FRIDAY 5:00

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

repeal cars

1 AN ACT *to renumber* 941.23, 941.235 (2) and 941.29 (10); *to renumber and*
2 *amend* 165.83 (1) (e) and 165.85 (2) (g); *to amend* 23.29 (23), 23.293 (19), 23.33
3 (4) (c) 1., 23.33 (12) (b), 23.51 (3), 30.64, 340.01 (3) (b), 341.17 (9) (c) 2., 343.235
4 (3) (a), 343.237 (4), 350.02 (3m), 350.17 (2), 939.22 (22), 940.20 (2), 941.20 (1m)
5 (b), 941.2965 (3) (a), 941.298 (3) (a), 941.299 (2) (a), 941.31 (2) (c), 948.605 (2)
6 (b) 6., 948.605 (3) (b) 4. and 948.61 (3) (c); and *to create* 165.83 (1) (e) 2., 165.85
7 (2) (g) 2., 175.41, 340.01 (8t), 340.01 (8u), 341.17 (4) (h), 939.22 (5), 939.22 (37),
8 941.20 (3) (b) 3., 941.23 (2), 941.235 (2) (b), 941.237 (3m), 941.26 (4) (cm), 941.29
9 (10) (bm), 941.295 (2m) and 948.55 (4m) of the statutes; **relating to:**

1 conservation wardens employed by the Great Lakes Indian Fish and Wildlife
2 Commission.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill, developed by the Joint Legislative Council's special committee on state-tribal relations, extends the application of a broad range of statutes related to law enforcement to conservation wardens employed by the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) and authorizes GLIFWC wardens to aid or assist a Wisconsin peace officer or to make an arrest for a violation of state law under specified circumstances.

BACKGROUND

In the 1970s and 1980s, litigation in federal court sought to determine the extent of rights for the harvest of natural resources retained by the Chippewa Indian bands when the bands ceded territory to the United States in treaties in 1837 and 1842. In a series of orders, the court affirmed the bands' continuing rights to hunt, fish, and gather on off-reservation public lands and waters throughout the ceded territories in northern Wisconsin. Among other things, the court approved the Chippewa bands' proposal to adopt an off-reservation conservation code (off-reservation code) governing their members' exercise of those rights within the ceded territory but not on any Chippewa reservation, and to form an intertribal agency to enforce that code. GLIFWC is the agency the Chippewa bands created for this purpose.

An incident in which a GLIFWC warden working off-reservation detained a non-Indian person for a state firearms violation and delivered the individual to the county sheriff called into question the authority of the warden to detain the individual, as well as the legality of other aspects of the warden's behavior, such as going armed in the uniform of a law enforcement officer in a vehicle with equipment, such as lights and siren.

This case brought to attention that much of what GLIFWC wardens do is not contemplated under the statutes and that, in fact, the statutes could be read as prohibiting GLIFWC wardens from doing many things that the federal court authorized them to do. Similarly, many statutes that serve to protect the physical safety of law enforcement officers and others that serve to protect the interests of the public do not apply to GLIFWC wardens. These statutes **do** apply to conservation wardens employed by the Department of Natural Resources (DNR).

THE BILL

The bill is intended to accomplish two goals: first, to facilitate the work of GLIFWC and its wardens in enforcing the off-reservation code; and second, to enable GLIFWC wardens to assist state and local law enforcement agencies under certain circumstances.

Facilitating the Work of GLIFWC Wardens

This bill is explained in the Notes provided by the Joint Legislative Council in the bill.

referred to in the bill as commission wardens

↖

A

To facilitate the work of GLIFWC wardens, the bill applies many provisions of the criminal code and the conservation and motor vehicle statutes to them. In general, the bill does the following:

1. Applies statutes regarding the protection of officers or interference with law enforcement to all GLIFWC wardens. Examples of the statutes treated in this manner are s. 940.20 (2), stats., battery to a law enforcement officer, s. 941.21, stats., disarming a peace officer, and s. 946.41, stats., resisting or obstructing an officer. The bill also applies a number of other, miscellaneous statutes to all GLIFWC wardens, such as the requirement that a peace officer provide first aid to a person in custody (s. 940.291, stats.), communicable diseases (ch. 252, stats.), and the exception for peace officers to the prohibition on shining animals (s. 29.314, stats.). The bill also applies to all GLIFWC wardens the exceptions enjoyed by peace officers to various aspects of the motor vehicle code, including exceptions to various rules of the road and various restrictions on vehicle equipment.

2. Applies most statutes regarding the possession or use of firearms and other weapons by peace officers to GLIFWC wardens who meet state certification standards. Examples of statutes treated in this manner are exceptions for peace officers to prohibitions against carrying concealed weapons (s. 941.23, stats.) and the use of pepper spray (s. 941.26, stats.). The bill does not apply statutes authorizing the possession or use of explosives or particularly dangerous weapons to any GLIFWC warden. Examples of statutes in this category are exceptions for peace officers to prohibitions against the possession or use of machine guns, short-barreled shotguns and rifles, explosives, and other weapons.

3. Authorizes GLIFWC and its wardens to use the transaction information for management of enforcement (TIME) system if GLIFWC agrees to contribute information in its possession to the Department of Justice (DOJ) for addition to the TIME system. The TIME system allows officers in the field to access information regarding criminal investigations, suspected criminals, and outstanding warrants, as well as drivers' license and vehicle registration information, using computers installed in their patrol vehicles.

4. Applies the statutes administered by the law enforcement standards board (LESB) to GLIFWC wardens who agree to accept the duties of law enforcement officers under the laws of this state, which makes a GLIFWC warden subject to the rules and certification procedures of the LESB, and which is a prerequisite for exercising the authority, as created by this bill, to make arrests for violations of state law and to render aid and assistance to state peace officers.

5. Authorizes GLIFWC to receive from the Department of Transportation (DOT) monthly compilations of vehicle registration information, drivers' license and identification card photographs, and other identifying information in the same manner that sheriffs and chiefs of local police departments, among others, currently receive this information.

Authority to Arrest and Assist

The bill authorizes a GLIFWC warden to make an arrest for a violation of state law if the warden is responding to either: (a) an emergency situation that poses a significant threat to life or of bodily harm; or (b) acts that the warden believes, on reasonable grounds, constitute a felony. The bill also authorizes a GLIFWC warden to render aid or assistance to a Wisconsin peace officer in an emergency or at the request of the Wisconsin peace officer. A GLIFWC warden may take these actions only if all of the following conditions are met:

1. The warden is on duty and on official business.

2. The warden meets the training standards for state and local law enforcement officers and has agreed to accept the duties of law enforcement officers under the laws of this state.

3. GLIFWC has adopted and implemented written policies regarding making felony arrests under state law and rendering aid or assistance to state or local officers.

4. GLIFWC maintains liability insurance that does all of the following:

(a) Covers GLIFWC's liability up to a limit of not less than \$2 million for the acts of its wardens acting under this authority.

(b) Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to that limit.

The bill also authorizes GLIFWC wardens to engage in fresh pursuit in Wisconsin beyond the ceded territory under specified circumstances.

1 **SECTION 1.** 23.29 (23) of the statutes is amended to read:

2 **23.29 (23) ENFORCEMENT.** The department and its agents, the department of
3 justice, and peace officers, as defined under s. 939.22 (22), but not including
4 commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated
5 state natural areas in the geographic jurisdiction to enforce articles of dedication and
6 restrictions authorized under sub. (21).

7 **SECTION 2.** 23.293 (19) of the statutes is amended to read:

8 **23.293 (19) ENFORCEMENT.** The department and its agents, the department of
9 justice, and peace officers, as defined under s. 939.22 (22), but not including
10 commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated
11 ice age trail areas.

NOTE: SECTIONS 1 and 2 exclude GLIFWC wardens from the list of entities having enforcement authority for purposes of dedicated state natural areas and ice age trail areas.



12 **SECTION 3.** 23.33 (4) (c) 1. of the statutes is amended to read:

13 **23.33 (4) (c) 1.** Paragraphs (a) and (b) do not apply to the operator of an
14 all-terrain vehicle owned by a municipality, state agency, or public utility, or by the
15 Great Lakes Indian Fish and Wildlife Commission while the operator is engaged in
16 an emergency or in the operation of an all-terrain vehicle directly related to the

the

1 functions of the municipality, state agency, or public utility, or of Great Lakes Indian
2 Fish and Wildlife Commission if safety does not require strict adherence to these
3 restrictions.

4 **SECTION 4.** 23.33 (12) (b) of the statutes is amended to read:

5 23.33 (12) (b) No operator of an all-terrain vehicle may refuse to stop after
6 being requested or signaled to do so by a law enforcement officer or a commission
7 warden, as defined in s. 939.22 (5).

NOTE: SECTIONS 3 and 4 authorize GLIFWC wardens to operate all-terrain vehicles (ATVs) on highways, under specified circumstances, and require other ATV operators to stop when signaled by a GLIFWC warden.

8 **SECTION 5.** 23.51 (3) of the statutes is amended to read:

9 23.51 (3) "Enforcing officer" means ^upeace officer as defined by in s. 939.22 (22),
10 but not including a commission warden, as defined in s. 939.22 (5), ^uor means a person
11 who has authority to act pursuant to a specific statute.

NOTE: Excludes GLIFWC wardens from the definition of "enforcing officer" for purposes of forfeiture procedures for the enforcement of state conservation laws.

12 **SECTION 6.** 30.64 of the statutes is amended to read:

13 **30.64 Patrol boats.** (1) The operator of ~~a~~ duly an authorized patrol boat,
14 including a commission warden, as defined in s. 939.22 (5), when responding to an
15 emergency call or when in pursuit of an actual or suspected violator of the law, need
16 not comply with state law or local ordinances fixing maximum speed limits when a
17 siren is being sounded and if due regard is given to the safety of other persons in the
18 vicinity. If a light is used in conjunction with a siren it shall be the oscillating or
19 flashing type and be fitted with a blue lens.

20 (2) Upon the approach of ~~a~~ duly an authorized patrol boat, including a patrol
21 boat operated by a commission warden, as defined in s. 939.22 (5), giving an audio
22 or visual signal the operator of a boat shall reduce the boat speed to that speed

1 necessary to maintain steerage control and yield the right-of-way to the patrol boat
2 until it has passed.

3 (3) No person operating a boat may refuse to stop after being requested or
4 signaled to do so by a law enforcement officer or a commission warden, as defined in
5 s. 939.22 (5).

NOTE: Authorizes GLIFWC wardens to operate patrol boats in excess of speed limits, under specified circumstances, and requires other boat operators to yield to GLIFWC patrol boats and to stop when signaled by a GLIFWC warden.

6 **SECTION 7.** 165.83 (1) (e) of the statutes is renumbered 165.83 (1) (e) (intro.) and
7 amended to read:

8 165.83 (1) (e) (intro.) “Tribal law enforcement agency” means ~~an~~ any of the
9 following:

10 1. An agency of a tribe that is established for the purpose of preventing and
11 detecting crime on the reservation or trust lands of the tribe and enforcing the tribe’s
12 laws or ordinances, that employs full time one or more persons who are granted law
13 enforcement and arrest powers under s. 165.92 (2) (a), and that was created by a tribe
14 that agrees that its law enforcement agency will perform the duties required of the
15 agency under this section and s. 165.84.

16 **SECTION 8.** 165.83 (1) (e) 2. of the statutes is created to read:

17 165.83 (1) (e) 2. The Great Lakes Indian Fish and Wildlife Commission, if the
18 Great Lakes Indian Fish and Wildlife Commission agrees to perform the duties
19 required under this section and s. 165.84.

* NOTE: The definition change made by SECTIONS 7 and 8 gives GLIFWC and its wardens access to the TIME system in exchange for GLIFWC accepting the duty to provide certain information in its possession to the DOJ for inclusion in the TIME system.

20 **SECTION 9.** 165.85 (2) (g) of the statutes is renumbered 165.85 (2) (g) (intro.)
21 and amended to read:

1 165.85 (2) (g) (intro.) “Tribal law enforcement officer” means ~~a~~ any of the
2 following:

3 1. A person who is employed by a tribe for the purpose of detecting and
4 preventing crime and enforcing the tribe’s laws or ordinances, who is authorized by
5 the tribe to make arrests of Indian persons for violations of the tribe’s laws or
6 ordinances, and who agrees to accept the duties of law enforcement officers under the
7 laws of this state.

8 **SECTION 10.** 165.85 (2) (g) 2. of the statutes is created to read:

9 165.85 (2) (g) 2. A conservation warden employed by the Great Lakes Indian
10 Fish and Wildlife Commission who agrees to accept the duties of law enforcement
11 officers under the laws of this state.

NOTE: The definition change made by SECTIONS 9 and 10 subjects GLIFWC
wardens who agree to accept the duties of law enforcement officers to the rules and
certification procedures of ~~the~~ LESB, which is a prerequisite for exercising the authority
to make arrests for violations of state law and to render aid or assistance under s. 175.41,
as created by ~~this draft~~



the bill

12 **SECTION 11.** 175.41 of the statutes is created to read:

13 **175.41 Arrest and assistance; wardens employed by the Great Lakes**

14 **Indian Fish and Wildlife Commission.** (1) In this section:

15 (a) “Ceded territory” means the territory in Wisconsin ceded by the Chippewa
16 Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842,
17 7 Stat. 591.

18 (b) “Commission” means the Great Lakes Indian Fish and Wildlife
19 Commission.

20 (c) “Commission warden” means a conservation warden employed by the
21 commission.

1 (2) For purposes of civil and criminal liability, a commission warden may, when
2 in fresh pursuit, follow anywhere in the state outside the ceded territory and arrest
3 any of the following:

4 (a) A Chippewa tribal member for violation of the Chippewa off-reservation
5 conservation code, if the conditions of sub. (3) (a) and (e) are met.

6 (b) Any person for violation of the laws of this state, if the conditions of sub. (3)
7 (a) to (e) are met.

8 (3) Within the ceded territory, a commission warden may arrest a person for
9 violation of state law or provide aid or assistance to a Wisconsin peace officer if all
10 of the following criteria are met:

11 (a) The commission warden is on duty and on official business.

12 (b) Any of the following applies:

13 1. The commission warden is responding to any of the following:

14 a. An emergency situation that poses a significant threat to life or of bodily
15 harm.

16 b. Acts that the commission warden believes, on reasonable grounds, constitute
17 a felony.

18 2. The commission warden is rendering aid or assistance to a Wisconsin peace
19 officer in an emergency or at the request of the Wisconsin peace officer.

20 (c) The commission warden meets the requirements of s. 165.85 (4) (b) 1., (bn)
21 1., and (c) and has agreed to accept the duties of a law enforcement officer under the
22 laws of this state.

23 (d) The commission has adopted and implemented written policies regarding
24 making arrests and rendering aid or assistance under this subsection, including a

1 policy on notification to and cooperation with the law enforcement agency of the
2 jurisdiction in which such arrests are made.

3 (e) The commission maintains insurance, and provides evidence of the
4 insurance to the department of justice, that does all of the following:

5 1. Covers the commission for general liability for negligent acts of the
6 commission wardens and liability for errors and omissions under sub. (4).

7 2. Has a limit of coverage of not less than \$2,000,000 for any claim.

8 3. Provides that the insurer, in defending a claim against the policy, may not
9 raise the defense of sovereign immunity of the insured, up to the limits of the policy.

10 (4) Except as otherwise provided in an agreement between the commission and
11 the state or a subdivision of the state, the commission is liable for all acts of a
12 commission warden while acting under sub. (2) or (3), and neither the state nor any
13 political subdivision of the state may be held liable for any action of a commission
14 warden taken under the authority of sub. (2) or (3). For purposes of civil and criminal
15 liability, a commission warden acting under sub. (2) or (3) is considered to be acting
16 in an official capacity.

17 **SECTION 12.** 340.01 (3) (b) of the statutes is amended to read:

18 340.01 (3) (b) Conservation wardens' vehicles ~~or~~, foresters' trucks, or vehicles
19 used by commission wardens, whether publicly or privately owned.

NOTE: Adds GLIFWC wardens' vehicles to the definition of "authorized emergency
vehicle."

20 **SECTION 13.** 340.01 (8t) of the statutes is created to read:

21 340.01 (8t) "Commission" means the Great Lakes Indian Fish and Wildlife
22 Commission.

23 **SECTION 14.** 340.01 (8u) of the statutes is created to read:

1 340.01 (8u) “Commission warden” means a conservation warden employed by
2 the Commission.

NOTE: SECTIONS 13 and 14 define “the commission” and “commission warden” for
purposes of the statutes relating to motor vehicles and ~~all terrain vehicles~~, except ch.
350, stats. ATVs *

3 **SECTION 15.** 341.17 (4) (h) of the statutes is created to read:

4 341.17 (4) (h) To the commission, one copy of each automobile registration list
5 under sub. (1).

6 **SECTION 16.** 341.17 (9) (c) 2. of the statutes is amended to read:

7 341.17 (9) (c) 2. A law enforcement agency, a state authority or, a federal
8 governmental agency, or the commission to perform a legally authorized function.

9 **SECTION 17.** 343.235 (3) (a) of the statutes is amended to read:

10 343.235 (3) (a) A law enforcement agency, a state authority or, a federal
11 governmental agency, or the commission to perform a legally authorized function.

12 **SECTION 18.** 343.237 (4) of the statutes is amended to read:

13 343.237 (4) If a law enforcement agency of another state or the commission
14 makes a request meeting all the requirements specified for a request by a Wisconsin
15 law enforcement agency or a federal law enforcement agency under sub. (3), the
16 department shall comply with the request if all of the following apply:

17 (a) The law enforcement agency of the other state or the commission agrees to
18 comply with all of the requirements under this section.

19 (b) The other state or the commission allows Wisconsin law enforcement
20 agencies similar or greater access to similar information from that state or the
21 commission.

NOTE: SECTIONS 15 to 18 give GLIFWC access to DOT records regarding vehicle
registrations, and to personal identifying information and drivers' license and
identification card photographs to the same extent that current law gives access to law
enforcement agencies and others.

Much of this information is accessible through the TIME system, to which GLIFWC is given access by SECTIONS 7 and 8 of this bill. However, DOJ may not release the information via the TIME system to entities that do not have independent authority to receive the information directly from DOT, which these provisions provide.

as defined in 939.22 (5)

SECTION 19. 350.02 (3m) of the statutes is amended to read:

350.02 (3m) A law enforcement officer or a conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission may operate a snowmobile on a highway in performance of his or her official duties if the snowmobile is equipped with a light that is red or blue or a combination thereof and that is flashing, oscillating, or rotating. as defined in s. 939.22 (5)

Score
Commission
stays
Commission
stays

SECTION 20. 350.17 (2) of the statutes is amended to read:

350.17 (2) No person operating a snowmobile shall refuse to stop after being requested or signaled to do so by a law enforcement officer or a conservation warden employed by the Great Lakes Fish and Wildlife Commission.

NOTE: SECTION 19 authorizes GLIFWC wardens to operate snowmobiles on highways, under specified circumstances, and SECTION 20 requires other snowmobile operators to stop when signaled by a GLIFWC warden.

SECTION 21. 939.22 (5) of the statutes is created to read:

939.22 (5) "Commission warden" means a conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission.

SECTION 22. 939.22 (22) of the statutes is amended to read:

939.22 (22) "Peace officer" means any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. "Peace officer" includes a commission warden.

SECTION 23. 939.22 (37) of the statutes is created to read:

939.22 (37) "State-certified commission warden" means a commission warden who meets the requirements of s. 165.85 (4) (b) 1., (bn) 1., and (c) and has agreed to accept the duties of a law enforcement officer under the laws of this state.

NOTE: SECTIONS 21 to 23 define “commission warden” and “state-certified commission warden” for purposes of the criminal code and amend the definition of “peace officer” to include GLIFWC wardens.

1 **SECTION 24.** 940.20 (2) of the statutes is amended to read:

2 940.20 (2) BATTERY TO LAW ENFORCEMENT OFFICERS AND, FIRE FIGHTERS, AND GREAT

3 LAKES INDIAN FISH AND WILDLIFE COMMISSION WARDENS. Whoever intentionally
4 causes bodily harm to a law enforcement officer or fire fighter, as those terms are
5 defined in s. 102.475 (8) (b) and (c), or to a commission warden, acting in an official
6 capacity and the person knows or has reason to know that the victim is a law
7 enforcement officer ~~or~~, fire fighter, or commission warden, by an act done without the
8 consent of the person so injured, is guilty of a Class H felony.

NOTE: Makes battery to a GLIFWC warden a Class H felony, as is battery to a law enforcement officer or fire fighter under current law.

9 **SECTION 25.** 941.20 (1m) (b) of the statutes is amended to read:

10 941.20 (1m) (b) Whoever intentionally points a firearm at or towards a law
11 enforcement officer, a fire fighter, an emergency medical technician, a first
12 responder, ~~or~~ an ambulance driver, or a commission warden who is acting in an
13 official capacity and who the person knows or has reason to know is a law
14 enforcement officer, a fire fighter, an emergency medical technician, a first
15 responder, ~~or~~ an ambulance driver, or a commission warden is guilty of a Class H
16 felony.

NOTE: Makes pointing a firearm at a GLIFWC warden a Class H felony, as is pointing a firearm at a law enforcement officer or certain others under current law.

17 **SECTION 26.** 941.20 (3) (b) 3. of the statutes is created to read:

18 941.20 (3) (b) 3. Notwithstanding subd. 1. a. and s. 939.22 (22), par. (a) applies
19 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the discharge of a firearm from a vehicle is extended only to state-certified GLIFWC wardens.

1 **SECTION 27.** 941.23 of the statutes is renumbered 941.23 (1).

2 **SECTION 28.** 941.23 (2) of the statutes is created to read:

3 941.23 (2) Notwithstanding s. 939.22 (22), sub. (1) applies to a commission
4 warden who is not a state-certified commission warden.

NOTE: SECTIONS 27 and 28 provide that the peace officers' exemption from the prohibition on carrying a concealed weapon is extended only to state-certified GLIFWC wardens.

5 **SECTION 29.** 941.235 (2) of the statutes is renumbered 941.235 (2) (a).

6 **SECTION 30.** 941.235 (2) (b) of the statutes is created to read:

7 941.235 (2) (b) Notwithstanding par. (a) and s. 939.22 (22), sub. (1) applies to
8 a commission warden who is not a state-certified commission warden.

NOTE: SECTIONS 29 and 30 provide that the peace officers' exemption from the prohibition on carrying a firearm in a public building is extended only to state-certified GLIFWC wardens.

9 **SECTION 31.** 941.237 (3m) of the statutes is created to read:

10 941.237 (3m) Notwithstanding sub. (3) (a) and s. 939.22 (22), sub. (2) applies
11 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm where alcoholic beverages are sold is extended only to state-certified GLIFWC wardens.

12 **SECTION 32.** 941.26 (4) (cm) of the statutes is created to read:

13 941.26 (4) (cm) Notwithstanding par. (c) 2. and s. 939.22 (22), par. (b) applies
14 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of ~~an electric weapon~~ is extended only to state-certified GLIFWC wardens.

15 **SECTION 33.** 941.29 (10) of the statutes is renumbered 941.29 (10) (am).

16 **SECTION 34.** 941.29 (10) (bm) of the statutes is created to read:

17 941.29 (10) (bm) Notwithstanding par. (am) 1. and s. 939.22 (22), the
18 prohibition against possession of a firearm under this section applies to a person

1 specified in sub. (1) (f) who is a commission warden but who is not a state-certified
2 commission warden.

NOTE: SECTIONS 33 and 34 provide that the peace officers' exemption from the prohibition on the possession of a firearm by a person subject to a domestic abuse or child abuse injunction is extended only to state-certified GLIFWC wardens.

3 **SECTION 35.** 941.295 (2m) of the statutes is created to read:

4 941.295 (2m) Notwithstanding sub. (2) (a) and s. 939.22 (22), sub. (1) applies
5 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of an electric weapon is extended only to state-certified GLIFWC wardens.

6 **SECTION 36.** 941.2965 (3) (a) of the statutes is amended to read:

7 941.2965 (3) (a) Any peace officer acting in the discharge of his or her official
8 duties. Notwithstanding s. 939.22 (22), this paragraph does not apply to a
9 commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from prohibitions regarding the possession or display of facsimile firearms.

10 **SECTION 37.** 941.298 (3) (a) of the statutes is amended to read:

11 941.298 (3) (a) Any peace officer who is acting in compliance with the written
12 policies of the officer's department or agency. This paragraph does not apply to any
13 officer whose department or agency does not have such a policy. Notwithstanding
14 s. 939.22 (22), this paragraph does not apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the sale, delivery, or possession or display of a firearms silencer.

15 **SECTION 38.** 941.299 (2) (a) of the statutes is amended to read:

16 941.299 (2) (a) Intentionally direct a beam of light from a laser pointer at any
17 part of the body of a correctional officer ~~or~~, law enforcement officer, or commission
18 warden without the officer's consent, if the person knows or has reason to know that

1 the victim is a correctional officer ~~or~~, law enforcement officer, or commission warden
2 who is acting in an official capacity.

NOTE: Prohibits pointing a laser pointer at a GLIFWC warden, as current law prohibits pointing a laser pointer at a law enforcement or correctional officer.

3 SECTION 39. 941.31 (2) (c) of the statutes is amended to read:

4 941.31 (2) (c) This subsection does not apply to the transportation, possession,
5 use, or transfer of any improvised explosive device by any armed forces or national
6 guard personnel or to any peace officer in the line of duty or as part of a duty-related
7 function or exercise. The restriction on transportation in this subsection does not
8 apply to common carriers. Notwithstanding s. 939.22 (22), this paragraph does not
9 apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the transportation, possession, use, or transfer ~~or display~~ of an improvised explosive device.

10 SECTION 40. 948.55 (4m) of the statutes is created to read:

11 948.55 (4m) Notwithstanding sub. (4) (d) and s. 939.22 (22), subs. (2) and (3)
12 apply to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' limited exemption from the prohibition on allowing a child to gain access to a loaded firearm is extended only to state-certified GLIFWC wardens.

13 SECTION 41. 948.605 (2) (b) 6. of the statutes is amended to read:

14 948.605 (2) (b) 6. By a law enforcement officer or state-certified commission
15 warden acting in his or her official capacity; or

16 SECTION 42. 948.605 (3) (b) 4. of the statutes is amended to read:

17 948.605 (3) (b) 4. By a law enforcement officer or state-certified commission
18 warden acting in his or her official capacity.

19 SECTION 43. 948.61 (3) (c) of the statutes is amended to read:

20 948.61 (3) (c) Is a law enforcement officer or state-certified commission warden
21 acting in the discharge of his or her official duties.

NOTE: SECTIONS 41 to 43 extend to state-certified GLIFWC wardens the exception to the prohibitions on possession or discharge of a firearm and possession of other dangerous weapons in a school zone that current law gives to law enforcement officers.

1

(END)

Barman, Mike

From: Hanaman, Cathlene
Sent: Friday, August 19, 2005 1:44 PM
To: Jackson, Wendy; Haugen, Caroline; Schlueter, Ron; Lori Northrop; Lynn Emery; Mike Barman; Sarah Basford

I have a quick companion bill -3520 (companion to -3096) coming through as a today. No changes, it should be easy.

Could -3096/1 be jacketed for the Assembly and -3520 (the companion coming through today) be jacketed for the Senate. Please send the jackets to Joyce Kiel (Leg Council).