

## ENGROSSED SENATE BILL 214

1           **(17) PENALTIES.** (a) Any person who violates sub. (2g) (b) or (c) may be required  
2 to forfeit not more than \$25.

3           (b) Any person who violates sub. (2k) (e) or (16) may be fined not more than  
4 \$1,000 or imprisoned for not more than 90 days or both.

5           (c) Any person who intentionally falsely swears under sub. (6) or (15) (b) 2. or  
6 who intentionally makes a false statement to a sheriff in requesting or in connection  
7 with the issuance of an emergency license under sub. (9r) shall be fined not less than  
8 \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

9           (d) Any person who intentionally violates sub. (12) (a) shall be fined not less  
10 than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

11           (e) Any person required under sub. (14) (b) 2. to relinquish or deliver a license  
12 document to a sheriff who intentionally violates the requirements of that subdivision  
13 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for  
14 not more than 9 months.

15           **(18) ACCESS TO RECORDS.** Records created or kept under this section by the  
16 department or a sheriff, other than reports created under sub. (19) or records created  
17 under sub. (20), are not subject to access under s. 19.35.

18           **(19) STATISTICAL REPORT.** (a) By February 1 of each year, a sheriff who is issuing  
19 or renewing licenses under this section shall submit a statistical report to the  
20 department indicating the number of licenses applied for, issued, denied, suspended,  
21 and revoked under this section during the previous calendar year. For the licenses  
22 denied, the report shall indicate the reasons for the denials and the part of the  
23 application process during which the reasons for denial were discovered. For the  
24 licenses suspended or revoked, the report shall indicate the reasons for the  
25 suspensions and revocations.

## ENGROSSED SENATE BILL 214

1 (b) By March 1 of each year, the department shall submit a statistical report  
2 to the legislature under s. 13.172 (2) and to the governor that is compiled from the  
3 reports submitted under par. (a) and that indicates the number of licenses applied  
4 for, issued, denied, suspended, and revoked under this section during the previous  
5 calendar year. For the licenses denied, the report shall indicate the reasons for the  
6 denials and the part of the application process in which the reasons for denial were  
7 discovered. For the licenses suspended or revoked, the report shall indicate the  
8 reasons for the suspensions and revocations.

9 (20) LAW ENFORCEMENT EXCELLENCE FUND. (a) If a county's sheriff issues licenses  
10 under sub. (2) (a) or is party to an agreement under sub. (2) (c), the county board shall  
11 establish a law enforcement excellence fund. All money received by a sheriff from  
12 payments made under subs. (7) (bt) and (15) (b) 4. d. shall be deposited in accordance  
13 with s. 59.25 (3) (u) 4. in the law enforcement excellence fund established under this  
14 subsection.

15 (b) A law enforcement excellence fund established under this subsection shall  
16 be used to improve law enforcement services in the county and may not be used to  
17 supplant or replace other funds otherwise available to the sheriff.

18 (20m) GRANTS FOR SHOOTING RANGES. (a) Using the fees collected under sub.  
19 (7) (bp) and (15) (b) 4. c., a sheriff issuing licenses under this section shall award  
20 grants to persons for construction or improvement of shooting ranges.

21 (b) A grant awarded under this subsection may be for up to 50% of the cost of  
22 the construction or improvement of the shooting range. A grant awarded under this  
23 subsection may not be used to pay for any of the following:

24 1. The construction of clubhouses and facilities that are not essential to the  
25 operation of the shooting range.

**ENGROSSED SENATE BILL 214**

1           2. The operation and maintenance of the shooting range.

2           (c) In order to receive a grant under this subsection, the person creating or  
3 improving a shooting range shall agree to provide, for a fee of not more than \$20, a  
4 firearm safety course or class that will qualify an individual to satisfy the  
5 requirements under sub. (3) (h) for a license to carry a concealed weapon.

6           (d) In determining whether to make a grant under this subsection to a  
7 particular applicant, the sheriff shall consider the potential of the project to meet the  
8 needs of firearm safety courses or classes that meet the requirements under sub.  
9 (4m) in the area served by the shooting range relative to the proposed cost of the  
10 construction or improvement.

11           **(21) IMMUNITY.** (a) The department and its employees, sheriffs and their  
12 employees, clerks, as defined in sub. (11) (d) 1. a., and their staff, court automated  
13 information systems, as defined under sub. (11) (d) 1. b., and its employees, and  
14 counties and their employees are immune from liability arising from any act or  
15 omission under this section, if done in good faith.

16           (b) A person providing a firearm safety or firearm training course or class in  
17 good faith is immune from liability arising from any act or omission related to the  
18 course or class if the course or class is one described in sub. (3) (h).

19           (c) A business or a nonprofit organization that permits a person to carry a  
20 concealed weapon on property that it owns or occupies is immune from any liability  
21 arising from its decision to do so, if done in good faith.

22           (d) An employer that permits any of its employees to carry a concealed weapon  
23 under sub. (15m) is immune from any liability arising from its decision to do so, if  
24 done in good faith.

25           **SECTION 22.** 440.26 (3m) of the statutes is amended to read:

## ENGROSSED SENATE BILL 214

## SECTION 22

1           440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS. The department shall  
2 promulgate rules relating to the carrying of dangerous weapons by a person who  
3 holds a license or permit issued under this section or who is employed by a person  
4 licensed under this section. The rules shall allow the person to go armed with a  
5 concealed weapon as permitted under s. 175.50 if the person is licensed under that  
6 section and shall meet the minimum requirements specified in 15 USC 5902 (b).

7           SECTION 23. 813.12 (6) (am) 1. of the statutes is amended to read:

8           813.12 (6) (am) 1. If an injunction is issued or extended under sub. (4) or if a  
9 tribal injunction is filed under s. 806.247 (3), the clerk of the circuit court shall notify  
10 the department of justice of the injunction and shall provide the department of  
11 justice with information concerning the period during which the injunction is in  
12 effect and information necessary to identify the respondent for purposes of a firearms  
13 restrictions record search under s. 175.35 (2g) (c) or a background check under s.  
14 175.50 (9g) (b).

15           SECTION 24. 813.12 (6) (am) 2. of the statutes is amended to read:

16           813.12 (6) (am) 2. Except as provided in subd. 3., the department of justice may  
17 disclose information that it receives under subd. 1. only as part of a firearms  
18 restrictions record search under s. 175.35 (2g) (c) or a background check under s.  
19 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or  
20 (11) (d) 3.

21           SECTION 25. 813.122 (9) (am) 1. of the statutes is amended to read:

22           813.122 (9) (am) 1. If an injunction is issued or extended under sub. (5), the  
23 clerk of the circuit court shall notify the department of justice of the injunction and  
24 shall provide the department of justice with information concerning the period  
25 during which the injunction is in effect and information necessary to identify the

## ENGROSSED SENATE BILL 214

1 respondent for purposes of a firearms restrictions record search under s. 175.35 (2g)  
2 (c) or a background check under s. 175.50 (9g) (b).

3 **SECTION 26.** 813.122 (9) (am) 2. of the statutes is amended to read:

4 813.122 (9) (am) 2. Except as provided in subd. 3., the department of justice  
5 may disclose information that it receives under subd. 1. only as part of a firearms  
6 restrictions record search under s. 175.35 (2g) (c) or a background check under s.  
7 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or  
8 (11) (d) 3.

9 **SECTION 27.** 813.125 (5r) (a) of the statutes is amended to read:

10 813.125 (5r) (a) If an order prohibiting a respondent from possessing a firearm  
11 is issued under sub. (4m), the clerk of the circuit court shall notify the department  
12 of justice of the existence of the order prohibiting a respondent from possessing a  
13 firearm and shall provide the department of justice with information concerning the  
14 period during which the order is in effect and information necessary to identify the  
15 respondent for purposes of a firearms restrictions record search under s. 175.35 (2g)  
16 (c) or a background check under s. 175.50 (9g) (b).

17 **SECTION 28.** 813.125 (5r) (b) of the statutes is amended to read:

18 813.125 (5r) (b) Except as provided in par. (c), the department of justice may  
19 disclose information that it receives under par. (a) only as part of a firearms  
20 restrictions record search under s. 175.35 (2g) (c) or a background check under s.  
21 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or  
22 (11) (d) 3.

23 **SECTION 29.** 885.235 (1g) (intro.) of the statutes is amended to read:

24 885.235 (1g) (intro.) In any action or proceeding in which it is material to prove  
25 that a person was under the influence of an intoxicant or had a prohibited alcohol

## ENGROSSED SENATE BILL 214

## SECTION 29

1 concentration or a specified alcohol concentration while operating or driving a motor  
2 vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating  
3 a motorboat, except a sailboat operating under sail alone, while operating a  
4 snowmobile, while operating an all-terrain vehicle, while going armed with a  
5 concealed weapon, or while handling a firearm, evidence of the amount of alcohol in  
6 the person's blood at the time in question, as shown by chemical analysis of a sample  
7 of the person's blood or urine or evidence of the amount of alcohol in the person's  
8 breath, is admissible on the issue of whether he or she was under the influence of an  
9 intoxicant or had a prohibited alcohol concentration or a specified alcohol  
10 concentration if the sample was taken within 3 hours after the event to be proved.  
11 The chemical analysis shall be given effect as follows without requiring any expert  
12 testimony as to its effect:

13 **SECTION 30.** 885.235 (1g) (e) of the statutes is created to read:

14 885.235 (1g) (e) In a case brought under s. 175.50 (16) (cm) 1. a. or b., the fact  
15 that the analysis shows that the person had an alcohol concentration of more than  
16 0.0 but less than 0.08 is relevant evidence on the issue of whether the person was  
17 intoxicated or had an alcohol concentration of 0.08 or more but is not to be given any  
18 prima facie effect. In a case brought under s. 175.50 (16) (cm) 1. a., the fact that the  
19 analysis shows that the person had an alcohol concentration of 0.08 or more is prima  
20 facie evidence that he or she had an alcohol concentration of 0.08 or more.

21 **SECTION 31.** 938.396 (8) of the statutes is amended to read:

22 938.396 (8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for  
23 an act that would be a felony if committed by an adult, the court clerk shall notify  
24 the department of justice of that fact. No other information from the juvenile's court  
25 records may be disclosed to the department of justice except by order of the court.

**ENGROSSED SENATE BILL 214**

1 The department of justice may disclose any information provided under this  
2 subsection only as part of a firearms restrictions record search under s. 175.35 (2g)  
3 (c) or a background check under s. 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g)  
4 (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

5 **SECTION 32.** 938.396 (8m) of the statutes is created to read:

6 938.396 (8m) (a) Notwithstanding sub. (2), if a juvenile is adjudged delinquent  
7 for an act that would be a misdemeanor crime of violence, as defined in s. 175.50 (1)  
8 (e), if committed by an adult, the court clerk shall notify the department of justice  
9 of that fact. Except as provided in par. (b), no other information from the juvenile's  
10 court records may be disclosed to the department of justice except by order of the  
11 court.

12 (b) If an applicant for a license to carry a concealed weapon under s. 175.50 was  
13 adjudicated delinquent as a juvenile in a case covered by par. (a), the department of  
14 justice may request permission to review court records relating to the case for the  
15 purpose of determining whether the applicant meets the requirement under s.  
16 175.50 (3) (m). Upon receiving such a request, the court shall open for inspection by  
17 authorized representatives of the department of justice the records of the court  
18 relating to that case.

19 (c) The department of justice may disclose information provided or obtained  
20 under this subsection only as part of a background check under s. 175.50 (9g) (b) or  
21 to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

22 **SECTION 33.** 941.20 (1) (a) of the statutes is amended to read:

23 941.20 (1) (a) Endangers another's safety by the negligent operation or  
24 handling of a dangerous weapon; ~~or.~~

25 **SECTION 34.** 941.20 (1) (b) of the statutes is amended to read:

**ENGROSSED SENATE BILL 214****SECTION 34**

1           941.20 (1) (b) Operates ~~or goes armed with~~ a firearm while he or she is under  
2 the influence of an intoxicant; ~~or,~~

3           **SECTION 35.** 941.20 (1) (bm) of the statutes is created to read:

4           941.20 (1) (bm) Goes armed with a firearm while he or she is under the  
5 influence of an intoxicant. This paragraph does not apply to a licensee, as defined  
6 in s. 175.50 (1) (d), or an out-of-state licensee, as defined in s. 175.50 (1) (g), who goes  
7 armed with a concealed handgun, as defined in s. 175.50 (1) (bm), while he or she is  
8 under the influence of an intoxicant or while he or she has an alcohol concentration,  
9 as defined in s. 340.01 (1v), that exceeds 0.08.

10          **SECTION 36.** 941.23 of the statutes is renumbered 941.23 (1) (intro.) and  
11 amended to read:

12          941.23 (1) (intro.) Any person ~~except a peace officer, other than one of the~~  
13 following, who goes armed with a concealed and dangerous weapon is guilty of a  
14 Class A misdemeanor:

15          **SECTION 37.** 941.23 (1) (a) of the statutes is created to read:

16          941.23 (1) (a) A peace officer.

17          **SECTION 38.** 941.23 (1) (b) of the statutes is created to read:

18          941.23 (1) (b) An individual holding a valid license under s. 175.50 or  
19 authorized under the law of another state to go armed with a concealed weapon in  
20 that state, if the dangerous weapon is a weapon, as defined under s. 175.50 (1) (j).

21          **SECTION 39.** 941.23 (1) (c) of the statutes is created to read:

22          941.23 (1) (c) An individual who goes armed with a concealed and dangerous  
23 weapon, as defined in s. 175.50 (1) (j), in his or her own dwelling or place of business  
24 or on land that he or she owns, leases, or legally occupies, unless he or she is  
25 prohibited under federal or state law from possessing that weapon.

## ENGROSSED SENATE BILL 214

1           **SECTION 40.** 941.23 (2) of the statutes is created to read:

2           941.23 (2) An individual formerly licensed under s. 175.50 whose license has  
3           been suspended or revoked under s. 175.50 (14) may not assert his or her refusal to  
4           accept or failure to receive a notice of revocation or suspension mailed under s. 175.50  
5           (14) (b) 2. as a defense to prosecution under sub. (1), regardless of whether the person  
6           has complied with s. 175.50 (12).

7           **SECTION 41.** 941.235 (2) of the statutes is renumbered 941.235 (2) (intro.) and  
8           amended to read:

9           941.235 (2) (intro.) This section does not apply to ~~peace~~ any of the following:

10          (a) Peace officers or armed forces or military personnel who go armed in the line  
11          of duty or to any.

12          (b) A person duly authorized by the chief of police of any city, village or town,  
13          the chief of the capitol police or the sheriff of any county to possess a firearm in any  
14          building under sub. (1).

15          **SECTION 42.** 941.235 (2) (c) of the statutes is created to read:

16          941.235 (2) (c) An individual holding a valid license under s. 175.50 or  
17          authorized under the law of another state to go armed with a concealed weapon, as  
18          defined in s. 175.50 (1) (j), if the firearm is a handgun, as defined in s. 175.50 (1) (bm).

19          **SECTION 43.** 941.237 (3) (ct) of the statutes is created to read:

20          941.237 (3) (ct) An individual holding a valid license under s. 175.50 or  
21          authorized under the law of another state to go armed with a concealed weapon in  
22          that state.

23          **SECTION 44.** 941.295 (2) (d) of the statutes is amended to read:

24          941.295 (2) (d) Any manufacturer or seller ~~whose of~~ electric weapons are used  
25          in this state solely by persons, unless the manufacturer or seller engages in the

**ENGROSSED SENATE BILL 214****SECTION 44**

1 conduct described in sub. (1) with the intent to provide an electric weapon to someone  
2 other than a person specified in pars. (a) to (c) or sub. (2g) (a) or to a person for use  
3 in his or her dwelling or place of business or on land that he or she owns, leases, or  
4 legally occupies.

5 **SECTION 45.** 941.295 (2g) of the statutes is created to read:

6 941.295 (2g) The prohibition in sub. (1) on possessing or going armed with an  
7 electric weapon does not apply to any of the following:

8 (a) An individual holding a valid license under s. 175.50 or authorized under  
9 the law of another state to go armed with a concealed weapon in that state.

10 (b) An individual who goes armed with an electric weapon in his or her own  
11 dwelling or place of business or on land that he or she owns, leases, or legally  
12 occupies, unless he or she is prohibited under federal or state law from possessing  
13 that weapon.

14 **SECTION 46.** 941.295 (2r) of the statutes is created to read:

15 941.295 (2r) The prohibition in sub. (1) on transporting an electric weapon does  
16 not apply to any of the following:

17 (a) An individual holding a valid license under s. 175.50 or authorized under  
18 the law of another state to go armed with a concealed weapon in that state.

19 (b) An individual who transports an electric weapon from any of the following  
20 places to any of the following places:

21 1. His or her dwelling.

22 2. His or her own place of business.

23 3. Land that he or she owns, leases, or legally occupies.

24 **SECTION 47.** 943.13 (1e) (bm) of the statutes is created to read:

## ENGROSSED SENATE BILL 214

1           943.13 (1e) (bm) “Licensee” means a licensee, as defined in s. 175.50 (1) (d), or  
2 an out-of-state licensee, as defined in s. 175.50 (1) (g).

3           **SECTION 48.** 943.13 (1e) (g) of the statutes is created to read:

4           943.13 (1e) (g) “Weapon” has the meaning given in s. 175.50 (1) (j).

5           **SECTION 49.** 943.13 (1m) (b) of the statutes is amended to read:

6           943.13 (1m) (b) Enters or remains on any land of another after having been  
7 notified by the owner or occupant not to enter or remain on the premises. This  
8 paragraph does not apply to a licensee if the owner’s or occupant’s intent is to prevent  
9 the licensee from going armed with a concealed weapon on the owner’s or occupant’s  
10 land.

11           **SECTION 50.** 943.13 (1m) (c) of the statutes is created to read:

12           943.13 (1m) (c) 1. While going armed with a concealed weapon, enters or  
13 remains at a residence that the person does not own or occupy after the owner of the  
14 residence, if he or she has not leased it to another person, or the occupant of the  
15 residence has notified the actor not to enter or remain at the residence while going  
16 armed with a concealed weapon or with that type of concealed weapon. In this  
17 subdivision, “residence,” with respect to a single-family residence, includes all of the  
18 premises, and “residence,” with respect to a residence that is not a single-family  
19 residence, does not include any common area of the building in which the residence  
20 is located.

21           2. While going armed with a concealed weapon, enters or remains in any part  
22 of a nonresidential building that the person does not own or occupy after the owner  
23 of the building, if he or she has not leased it to another person, or the occupant of the  
24 building has notified the actor not to enter or remain in the building while going  
25 armed with a concealed weapon or with that type of concealed weapon. This

**ENGROSSED SENATE BILL 214****SECTION 50**

1 subdivision does not apply to a part of a building occupied by the state or one of its  
2 political subdivisions or to any part of a building used for parking.

3 **SECTION 51.** 943.13 (2) of the statutes is renumbered 943.13 (2) (am), and  
4 943.13 (2) (am) (intro.) and 1., as renumbered, are amended to read:

5 943.13 (2) (am) (intro.) A person has received notice from the owner or occupant  
6 within the meaning of sub. (1m) (b), (e) or (f) if he or she has been notified personally,  
7 either orally or in writing, or if the land is posted. Land is considered to be posted  
8 under this ~~subsection~~ paragraph under either of the following procedures:

9 1. If a sign at least 11 inches square is placed in at least 2 conspicuous places  
10 for every 40 acres to be protected. The sign must carry an appropriate notice and the  
11 name of the person giving the notice followed by the word “owner” if the person giving  
12 the notice is the holder of legal title to the land and by the word “occupant” if the  
13 person giving the notice is not the holder of legal title but is a lawful occupant of the  
14 land. Proof that appropriate signs as provided in this ~~paragraph~~ subdivision were  
15 erected or in existence upon the premises to be protected prior to the event  
16 complained of shall be prima facie proof that the premises to be protected were posted  
17 as provided in this ~~paragraph~~ subdivision.

18 **SECTION 52.** 943.13 (2) (bm) of the statutes is created to read:

19 943.13 (2) (bm) 1. In this paragraph, “sign” means a sign that states a  
20 restriction imposed under subd. 2. that is at least 8.5 inches by 11 inches.

21 2. For the purposes of sub. (1m) (c) 2., an owner or occupant of a part of a  
22 nonresidential building has notified an individual not to enter or remain in that part  
23 of the nonresidential building while going armed with a concealed weapon or with  
24 a particular type of concealed weapon if the owner or occupant has done all of the  
25 following:

**ENGROSSED SENATE BILL 214**

1 a. Posted a sign that is located in a prominent place near the primary entrance  
2 to the part of the nonresidential building to which the restriction applies.

3 b. Personally and orally notified the individual of the restriction.

4 **SECTION 53.** 943.13 (3) of the statutes is amended to read:

5 943.13 (3) Whoever erects on the land of another signs which are the same as  
6 or similar to those described in sub. (2) (am) without obtaining the express consent  
7 of the lawful occupant of or holder of legal title to such land is subject to a Class C  
8 forfeiture.

9 **SECTION 54.** 946.32 (3) of the statutes is created to read:

10 946.32 (3) This section does not apply to offenses that may be prosecuted under  
11 s. 175.50 (17) (c).

12 **SECTION 55.** 948.605 (2) (c) of the statutes is created to read:

13 948.605 (2) (c) Paragraph (a) does not apply to the possession of a handgun, as  
14 defined in s. 175.50 (1) (bm), by an individual holding a valid license under s. 175.50  
15 or authorized under the law of another state to go armed with a concealed handgun  
16 who is going armed with a concealed handgun as permitted under s. 175.50.

17 **SECTION 56.** 948.61 (3m) of the statutes is created to read:

18 948.61 (3m) This section does not apply to the possession of a weapon, as  
19 defined in s. 175.50 (1) (j), other than a handgun, as defined in s. 175.50 (1) (bm), by  
20 an individual holding a valid license under s. 175.50 or authorized under the law of  
21 another state to go armed with a concealed weapon who is going armed with a  
22 concealed weapon as permitted under s. 175.50.

23 **SECTION 57. Nonstatutory provisions.**

24 **A.R.** (1) Using the procedure under section 227.24 of the statutes, the department  
25 of justice shall promulgate rules required under sections 165.25 (11) (a) and 175.35

**ENGROSSED SENATE BILL 214**

**SECTION 57**

1 (2g) (c) 3. of the statutes and under section 175.50 (9g) (f) of the statutes, as created  
2 by this act, for the period before the effective date of the permanent rules  
3 promulgated under those sections, but not to exceed the period authorized under  
4 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),  
5 (2) (b), and (3) of the statutes, the department is not required to provide evidence that  
6 promulgating a rule under this subsection as an emergency rule is necessary for the  
7 preservation of public peace, health, safety, or welfare and is not required to provide  
8 a finding of an emergency for a rule promulgated under this subsection.

9 **SECTION 58. Effective dates.** This act takes effect on the first day of the 5th  
10 month beginning after publication, except as follows:

11 (1) The treatment of sections 165.25 (11) (a) and 175.50 (2) (b), (2m), and (5) of  
12 the statutes and SECTION 57 (1) of this act take effect on the day after publication.

13 (END)

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**ENGROSSED SENATE BILL 214**

- 1 requiring the exercise of rule-making authority, providing an exemption from  
2 rule-making authority, and providing penalties.

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***Analysis by the Legislative Reference Bureau******Engrossment information:***

The text of Engrossed 2003 Senate Bill 214, as passed by the senate on October 23, 2003, consists of the following documents adopted in the senate on that date: Senate Substitute Amendment 2, as affected by Senate Amendment 1 (as affected by chief clerk's corrections and Senate Amendment 1 to Senate Amendment 1), Senate Amendments 2, 4, and 22, and Senate Amendment 48 (as affected by chief clerk's correction).

***Content of Engrossed 2003 Senate Bill 214:******Current Law***

Under current law, no person other than a peace officer may go armed with a concealed and dangerous weapon. The "going armed with" language applies to, among others, cases in which a person is carrying a concealed weapon but has not gone and is not going anywhere with it and cases in which a weapon is readily accessible to — but not physically carried by — a person in a car. A person who violates the prohibition on going armed with a concealed and dangerous weapon may be fined not more than \$10,000 or imprisoned for not more than nine months or both. But under *State v. Hamdan*, 2003 WI 113, \_\_ Wis. 2d \_\_, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when: 1) the person's interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. The *Hamdan* court also indicated that the constitutional right to keep and bear arms for security must permit a person to carry a concealed weapon under certain circumstances in his or her own home.

Current law prohibits, with certain exceptions, going armed with or possessing a firearm in a number of places, such as in a public building, tavern, state park, or wildlife refuge or within 1,000 feet of the grounds of a school. Current law also prohibits, with certain exceptions, carrying a loaded or unencased firearm in an automobile, motorboat, or airplane. Moreover, no person may operate or go armed with a firearm while under the influence of alcohol, a controlled substance, or any other intoxicant. A person who violates one of these prohibitions is subject to civil or criminal penalties.

***Carrying a concealed weapon in your own home or business***

This bill permits a person to go armed with a concealed and dangerous weapon in his or her own home or place of business or on land that he or she owns, leases, or legally occupies, unless the person is prohibited under federal or state law from

**ENGROSSED SENATE BILL 214**

possessing that weapon (prohibitions that apply to firearms if, among other things, the person has been convicted of a misdemeanor crime of domestic violence or a felony; the person unlawfully uses a controlled substance; the person has been involuntarily committed to a mental health facility; or the person is subject to a stalking, harassment, or domestic abuse restraining order or a harassment, domestic abuse, or child abuse injunction).

***Licenses to carry a concealed weapon***

This bill creates a procedure by which a person may apply to a county sheriff for a license to carry a concealed weapon more generally. The license authorizes a person to carry (defined in the bill to mean to go armed with) a concealed weapon (defined in the bill as a handgun, a stungun, a tear gas gun, a knife other than a switchblade, or a billy club) anywhere in this state except in particular places specified in the bill. These specified places include a police station, sheriff's office, or state patrol station; a prison or jail; a tavern or a restaurant with a liquor license (unless: 1) the person owns or manages the tavern or restaurant; 2) the person is otherwise authorized to possess a handgun at the tavern or restaurant; or 3) the sale of alcohol accounts for no more than 50% of the tavern's or restaurant's receipts); a school administration building; an airport; a building used for religious purposes, for child care, or by a domestic violence services program or a hospital (unless the owner or authorized representative permits a person to carry a concealed weapon there); a building located on a college or university campus; a kindergarten facility; a building owned by the state or a local government if the building provides electronic screening and locked storage for weapons; and any place in which federal law prohibits the carrying of a weapon.

In addition, the bill permits a business owner or person in his or her own home to prohibit a licensee from carrying a concealed weapon into the business or home. A business owner, however, may enforce this restriction against an individual only if he or she has posted a notice regarding the restriction in a prominent place and has personally and orally notified the individual of the restriction. Moreover, a private employer may prohibit an employee from carrying a concealed weapon in the course of the employee's employment unless the employee is in his or her own vehicle.

The bill also prohibits any person from carrying a concealed weapon while having a blood alcohol concentration that exceeds 0.08. A law enforcement officer who arrests a person for violating that prohibition or for carrying a concealed weapon while under the influence of an intoxicant may require the person to submit to a breath, blood, or urine test to detect the presence of alcohol, controlled substances, or any other intoxicant.

In addition to authorizing licensees to carry concealed weapons, the bill exempts licensees from the prohibition on possessing firearms in a school zone under certain circumstances. Specifically, the bill authorizes a licensee to carry a handgun in a school zone if: 1) the licensee is in a motor vehicle or on a snowmobile or bicycle; 2) the licensee has exited from a motor vehicle and is encasing the handgun or storing it in the motor vehicle; or 3) the licensee is traveling directly between any two of the following places: any person's private property, the licensee's place of employment or

health care facility  
or physician's  
clinic or office

or

or

**ENGROSSED SENATE BILL 214**

business, or a place outside of the school zone. This exemption does not apply if the licensee is on the school grounds.

***Licensing requirements and procedure***

Under the bill, a county sheriff must issue a license to carry a concealed weapon to a person who meets the qualifications established in the bill for the license unless a court (in a procedure described below) has authorized the sheriff not to issue the license or unless the county board of the sheriff's county decides by a two-thirds vote, taken before the fourth month after the bill becomes law, to authorize the sheriff not to issue concealed weapons licenses. The county board's vote does not prohibit the sheriff from issuing licenses; he or she may still choose to do so. The bill also allows two or more sheriffs to enter into cooperative agreements under which the sheriffs may jointly issue licenses to carry a concealed weapon or exercise their other responsibilities under the bill.

The bill specifies the requirements that a person must satisfy to qualify for a license to carry a concealed weapon. Included among the requirements are the following: 1) he or she must be at least 21 years old; 2) he or she must not have a physical disability that prevents him or her from safely handling a weapon; 3) he or she must be eligible to possess a firearm under federal law; 4) he or she must not be prohibited from possessing a firearm under state law due to a felony conviction, a juvenile delinquency adjudication, an order issued in a civil commitment case, or any other order prohibiting the person from possessing a firearm; 5) he or she must not have been committed for the treatment of drug dependency during the preceding three years; 6) he or she must not have been convicted of an offense relating to controlled substances during the preceding three years; 7) he or she must not chronically or habitually use alcohol or other substances to the extent that his or her normal faculties are impaired; 8) he or she must have successfully completed a firearms training or safety course or class covering certain topics specified in the bill (unless the sheriff determines that the person should be exempt from that requirement based on his or her military training or experience in shooting competitions); 9) he or she must not have been subject to a finding of incompetency, the subject of a protective placement as a minor based on a developmental disability, found not guilty of a crime by reason of mental disease or mental defect, or involuntarily committed for treatment of mental illness during the preceding five years; 10) he or she must not have been convicted of one of a set of specified misdemeanors or serving a sentence for committing such a misdemeanor within the preceding three years; and 11) he or she must be a Wisconsin resident.

In addition, the bill requires the Department of Justice (DOJ) to conduct a background check of a person who applies for a license to carry a concealed weapon to help determine the person's eligibility for a license. The background check requirement does not apply to a person applying for a license if the person is a law enforcement officer, a correctional officer, a probation and parole agent, or a person holding a current certification from the law enforcement standards board.

If the sheriff determines that an applicant for a license is ineligible under one of these requirements, the sheriff must deny the person's application. Otherwise, the sheriff must issue the person a license within 30 days of receiving the completed

*providing information on electric weapons and*

**ENGROSSED SENATE BILL 214**

application, but with one exception. If an applicant committed a misdemeanor described in item 10) above that, because of the passage of time, no longer disqualifies him or her from obtaining a license, and the sheriff believes that the person would pose a substantial risk to others if he or she were granted a license, the sheriff may petition the circuit court to enter an order barring the person from receiving a license. The court may enter the order only if it determines, by clear and convincing evidence, that the person would pose a substantial risk to others if he or she were granted a license.

Furthermore, the bill does all of the following:

1. Allows a sheriff to issue an emergency license to an individual if the sheriff determines that immediate licensure is warranted to protect the individual from death or great bodily harm.

2. Provides that a license to carry a concealed weapon is valid for five years and establishes a renewal procedure that includes a background check of the person renewing the license.

3. Requires a sheriff to revoke a license to carry a concealed weapon if the licensee no longer meets all of the requirements for licensure.

4. Requires a sheriff to suspend a license to carry a concealed weapon if the licensee is the subject of a civil or criminal case that may ultimately lead to the revocation of the license or if the licensee, after being charged with a misdemeanor, is ordered by the court not to possess a firearm.

5. Provides that a person whose application for a license is denied or whose license is suspended or revoked by the sheriff may appeal the sheriff's action to circuit court for review by a judge.

6. Specifies the information that must be on a license to carry a concealed weapon and an application for such a license and requires DOJ to design the form of the license and the license application and renewal forms.

7. Requires DOJ to keep a computerized list of licensees but specifies that DOJ may provide information from that list regarding a specific licensee only to law enforcement agencies and only in certain specified circumstances.

8. Requires each circuit court, through its computer system, or the clerk of the court or the register in probate if the court's computer system cannot do so, to notify DOJ of court proceedings relating to licensees and nonlicensees (including juvenile delinquency and mental health commitment proceedings that are closed to the public) if those proceedings will require suspension or revocation of the person's license if he or she is a licensee.

9. Requires each licensee to notify the sheriff within ten days after being charged with a crime or a drunk driving offense under federal law or the law of another state.

~~10. Requires a person who applies for a license to carry a concealed weapon to pay an application fee, which may not exceed either the cost to the sheriff of issuing the license or \$75, whichever is less; an \$8 background check fee (unless, in the case of a person applying for an emergency license, the sheriff waives the fee); a \$15 shooting range improvement fee, to be used by the sheriff to provide grants for the construction and improvement of shooting ranges; and a \$15 law enforcement~~

**ENGROSSED SENATE BILL 214**

~~excellence fund fee, to be used by the sheriff to improve law enforcement services in his or her county.~~

11. Grants immunity from liability for conduct undertaken in good faith under the bill to DOJ and its employees; sheriffs and their employees; various other court and county employees; persons providing firearm training or safety classes; business or nonprofit organizations that permit persons to carry concealed weapons on their property; and employers that permit their employees to carry concealed weapons.

12. Treats a license or permit issued by another state in the same manner as a license issued under this bill if the state required the person to undergo training and submit to a background check as a condition of licensure.

***New and revised penalties***

The bill establishes new penalties and changes certain others for offenses relating to licenses to carry a concealed weapon. First, a licensee who fails to carry his or her license document or who fails to display it upon the request of a law enforcement officer while the person is carrying a concealed weapon may be required to forfeit \$25. Second, a licensee who carries a concealed weapon in a place where the license does not authorize him or her to do so, other than a home or business where a resident or business owner has imposed his or her own restriction on carrying a concealed weapon, may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Third, if a person has a blood alcohol concentration that exceeds 0.08 or is under the influence of an intoxicant while carrying a concealed weapon, the person may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. The same penalties apply if, after a person is arrested for carrying a concealed weapon under those circumstances, he or she refuses to submit to a breath, blood, or urine test. At the same time, the bill exempts a licensee who is carrying a concealed handgun from the prohibition in current law against going armed with a firearm while under the influence of an intoxicant, a conviction for which would otherwise result in: 1) the person being subject, as a Class A misdemeanor, to a maximum fine of \$10,000 or a maximum term of imprisonment of nine months or both; and 2) the person being ineligible for a license. Fourth, under current law, possession of a firearm in a school zone is a Class I felony (punishable by a maximum fine of \$10,000 or a maximum term of imprisonment of three and one-half years or both), while possessing other types of dangerous weapons on school grounds is a Class A misdemeanor or, for a repeat offender, a Class I felony. A conviction under either of these provisions would also make a person ineligible for a license. This bill exempts licensees from these penalties. Instead, licensees who carry handguns in a school zone in places or under circumstances in which he or she may not do so or who carry electric weapons, tear gas guns, knives, or billy clubs on school grounds are subject to a maximum fine of \$1,000 or a maximum term of imprisonment of 90 days or both. Fifth, a person who does any of the following must be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months: 1) intentionally makes a false statement in an application for a license; 2) intentionally fails to report being charged under federal law or the law of another state with any crime or any drunk driving offense within ten days

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**ENGROSSED SENATE BILL 214**

after being charged; or 3) intentionally fails to relinquish a license document to a sheriff after the license has been revoked.

***Background checks for handgun purchasers***

This bill makes certain changes in the law relating to background checks for handgun purchasers. Under current law, when a person seeks to purchase a handgun from a licensed handgun dealer, the dealer must ask DOJ to conduct a background check on the person. In conducting the background check, DOJ searches DOJ records to determine whether the person is ineligible to possess a firearm under state law, but it does not attempt to determine whether federal law bars the person from possessing a firearm based on criteria not covered by state law. This bill requires DOJ, when conducting a background check on a prospective handgun purchaser, to determine whether the person has been the subject of a court order or finding in a Wisconsin court based on the person's mental health that would render the person ineligible to possess a firearm under federal law. Specifically, DOJ must determine if: 1) the person was the subject of a court order committing the person for treatment in an inpatient mental health facility or a finding by a court that the person is a danger to himself or herself or others or lacks the mental capacity to contract or manage his or her own affairs; 2) the person did not commence the proceeding in which the order was entered or the finding was made; and 3) the order or finding was based on the person having markedly subnormal intelligence or the person's mental illness, incompetency, condition, or disease. If DOJ determines that the prospective purchaser was the subject of such an order or determination, the dealer may not sell the person a handgun.

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

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

2           23.33 (3) (e) With any firearm in his or her possession unless it is unloaded and  
3 enclosed in a carrying case, ~~or. This paragraph does not apply to the possession of~~  
4 a handgun, as defined in s. 175.50 (1) (bm), by a person who holds a valid license to  
5 carry a concealed weapon issued under s. 175.50 or by an out-of-state licensee, as  
6 defined in s. 175.50 (1) (g).

7           ~~(em) With any bow unless it is unstrung or enclosed in a carrying case.~~

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

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10. Requires a person who applies for, or applies to renew, a license to carry a concealed weapon to pay the following: (a) an application fee, which may not exceed either the cost to the sheriff of issuing the license or \$75, whichever is less, to be deposited into the general fund of the county of application, except that any moneys that exceed the county's costs in issuing the license must be deposited into a fund to be used by the sheriff for law enforcement purposes or for payments; (b) a \$15 shooting range improvement fee, to be deposited into the general fund of the county of application; (c) an \$8 background check fee (unless, in the case of a person applying for an emergency license, the sheriff waives the fee) to be deposited in the general fund; (d) a \$15 law enforcement excellence fund fee, to be used by the sheriff to improve law enforcement services in his or her county.

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