SENATE SUBSTITUTE AMENDMENT 2,

TO 2005 SENATE BILL 403

December 5, 2005 – Offered by JOINT COMMITTEE ON FINANCE.

AN ACT ***to renumber and amend*** 23.33 (3) (e), 29.089 (2), 29.091, 29.621 (4), 440.26 (3m), 941.23, 941.235 (2), 941.295 (2) (d) and 943.13 (2); ***to amend*** 51.20 (13) (cv) 4., 51.20 (16) (gm), 51.30 (3) (a), 165.60, 165.82 (1) (intro.), 165.82 (2), 175.35 (1) (at), 175.35 (2) (d), 175.35 (2g) (c) 4. a. and b., 175.35 (2k) (ar) 2., 813.12 (6) (am) 1., 813.122 (9) (am) 1., 813.125 (5r) (a), 885.235 (1g) (intro.), 938.396 (8), 943.13 (1m) (b) and 943.13 (3); and ***to create*** 23.33 (3) (e) 1., 23.33 (3) (e) 2., 23.33 (3) (e) 3., 23.33 (3) (e) 4., 23.33 (3) (em), 29.089 (2) (a), 29.089 (2) (b), 29.089 (2) (c), 29.089 (2) (d), 29.091 (2), 29.621 (4) (a), 29.621 (4) (b), 29.621 (4) (c), 29.621 (4) (d), 29.621 (6), 55.06 (17) (d), 59.25 (3) (u), 165.25 (11), 167.31 (4) (ar), 175.35 (1) (am), 175.48, 175.49, 175.50, 341.175, 440.26 (3m) (a), 440.26 (3m) (b), 440.26 (3m) (c), 440.26 (3m) (d), 885.235 (1g) (e), 938.396 (8m), 941.23 (1), 941.23 (2) (a), 941.23 (2) (b), 941.23 (2) (c), 941.23 (2) (d), 941.23 (2) (e), 941.23 (3), 941.235 (2) (c), 941.235 (2) (d), 941.235 (2) (e), 941.237 (3) (cr),

941.237 (3) (ct), 941.237 (3) (cx), 941.29 (11), 941.295 (2) (d) 2., 941.295 (2g), 941.295 (2r), 943.13 (1e) (bm), 943.13 (1e) (g), 943.13 (1m) (c), 943.13 (2) (bm), 946.32 (3), 948.605 (2) (c) and 948.61 (3m) of the statutes; **relating to:** carrying a concealed weapon, licenses authorizing persons to carry concealed weapons, possessing or transporting a firearm under certain circumstances, background checks for handgun purchases, photographic identification cards for retired law enforcement officers, requiring the exercise of rule–making authority, providing an exemption from rule–making authority, and providing penalties.

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

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

23.33 **(3)** (e) (intro.) With any firearm in his or her possession unless it is unloaded and enclosed in a carrying case~~, or any bow unless it is unstrung or enclosed in a carrying case~~. This paragraph does not apply to any of the following:

SECTION 2. 23.33 (3) (e) 1. of the statutes is created to read:

23.33 **(3)** (e) 1. A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (e) 2. to 5. and (2) (b) 1. to 3. applies.

SECTION 3. 23.33 (3) (e) 2. of the statutes is created to read:

23.33 **(3)** (e) 2. A qualified out–of–state law enforcement officer, as defined in s. 941.23 (1) (e), to whom s. 941.23 (2) (b) 1. to 3. applies.

SECTION 4. 23.33 (3) (e) 3. of the statutes is created to read:

23.33 **(3)** (e) 3. A retired law enforcement officer, as defined in s. 941.23 (1) (f), to whom s. 941.23 (2) (c) 1. to 7. applies.

SECTION 5. 23.33 (3) (e) 4. of the statutes is created to read:

23.33 **(3)** (e) 4. A licensee, as defined in s. 175.50 (1) (d), or an out–of–state licensee, as defined in s. 175.50 (1) (g), who possesses a handgun, as defined in s. 175.50 (1) (bm).

SECTION 6. 23.33 (3) (em) of the statutes is created to read:

23.33 **(3)** (em) With any bow unless it is unstrung or enclosed in a carrying case.

SECTION 7. 29.089 (2) of the statutes is renumbered 29.089 (2) (intro.) and amended to read:

29.089 **(2)** (intro.) Except as provided in sub. (3), no person may have in his or her possession or under his or her control a firearm on land located in state parks or state fish hatcheries unless the firearm is unloaded and enclosed within a carrying case. This subsection does not apply to any of the following:

SECTION 8. 29.089 (2) (a) of the statutes is created to read:

29.089 **(2)** (a) A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (e) 2. to 5. and (2) (b) 1. to 3. applies.

SECTION 9. 29.089 (2) (b) of the statutes is created to read:

29.089 **(2)** (b) A qualified out–of–state law enforcement officer, as defined in s. 941.23 (1) (e), to whom s. 941.23 (2) (b) 1. to 3. applies.

SECTION 10. 29.089 (2) (c) of the statutes is created to read:

29.089 **(2)** (c) A retired law enforcement officer, as defined in s. 941.23 (1) (f), firearm to whom s. 941.23 (2) (c) 1. to 7. applies.

SECTION 11. 29.089 (2) (d) of the statutes is created to read:

29.089 **(2)** (d) A licensee, as defined in s. 175.50 (1) (d), or an out–of–state licensee, as defined in s. 175.50 (1) (g), if the firearm is a handgun, as defined in s. 175.50 (1) (bm).

SECTION 12. 29.091 of the statutes is renumbered 29.091 (1) and amended to read:

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

SECTION 13. 29.091 (2) of the statutes is created to read:

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

(a) A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (e) 2. to 5. and (2) (b) 1. to 3. applies.

(b) A qualified out–of–state law enforcement officer, as defined in s. 941.23 (1) (e), to whom s. 941.23 (2) (b) 1. to 3. applies.

(c) A retired law enforcement officer, as defined in s. 941.23 (1) (f), to whom s. 941.23 (2) (c) 1. to 7. applies.

(d) A licensee, as defined in s. 175.50 (1) (d), or an out–of–state licensee, as defined in s. 175.50 (1) (g), if the gun or firearm is a handgun, as defined in s. 175.50 (1) (bm).

SECTION 14. 29.621 (4) of the statutes is renumbered 29.621 (4) (intro.) and amended to read:

29.621 **(4)** PROTECTION. (intro.) Except as provided in s. 29.091 (1), no owner of a wildlife refuge, and no other person, may hunt or trap within the boundaries of any wildlife refuge or have in his or her possession or under his or her control in the wildlife refuge a gun, firearm, bow or crossbow, unless the gun or firearm is unloaded, the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed within a carrying case. ~~Nothing in this section may prohibit, prevent or interfere with the department in the destruction of injurious animals.~~ This subsection, as it relates to the possession or control of a loaded or unencased firearm, does not apply to any of the following:

SECTION 15. 29.621 (4) (a) of the statutes is created to read:

29.621 **(4)** (a) A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (e) 2. to 5. and (2) (b) 1. to 3. applies.

SECTION 16. 29.621 (4) (b) of the statutes is created to read:

29.621 **(4)** (b) A qualified out–of–state law enforcement officer, as defined in s. 941.23 (1) (e), to whom s. 941.23 (2) (b) 1. to 3. applies.

SECTION 17. 29.621 (4) (c) of the statutes is created to read:

29.621 **(4)** (c) A retired law enforcement officer, as defined in s. 941.23 (1) (f), to whom s. 941.23 (2) (c) 1. to 7. applies.

SECTION 18. 29.621 (4) (d) of the statutes is created to read:

29.621 **(4)** (d) A licensee, as defined in s. 175.50 (1) (d), or an out–of–state licensee, as defined in s. 175.50 (1) (g), if the gun or firearm is a handgun, as defined in s. 175.50 (1) (bm).

SECTION 19. 29.621 (6) of the statutes is created to read:

29.621 **(6)** INJURIOUS ANIMALS. Nothing in this section may prohibit, prevent, or interfere with the department in the destruction of injurious animals.

SECTION 20. 51.20 (13) (cv) 4. of the statutes is amended to read:

51.20 **(13)** (cv) 4. If the court prohibits a subject individual from possessing a firearm under subd. 1. or cancels a prohibition under subd. 2., the court clerk shall notify the department of justice of that fact and provide any information identifying the subject individual that is necessary to permit an accurate involuntary commitment history record search under s. 175.35 (2g) (c) or a background check under s. 175.50 (9g) (b). No other information from the subject individual's court records may be disclosed to the department of justice except by order of the court. The department of justice may disclose information provided under this subdivision only as part of an involuntary commitment history record search under s. 175.35 (2g) (c).

SECTION 21. 51.20 (16) (gm) of the statutes is amended to read:

51.20 **(16)** (gm) Upon a request under par. (a), a court may cancel the prohibition under sub. (13) (cv) 1. if the court determines, based on evidence presented on the issue of the subject individual's dangerousness, that there no longer is a substantial probability that the individual may use a firearm to cause physical harm to himself or herself or endanger public safety. If a court cancels a prohibition under sub. (13) (cv) 1. under this paragraph, the court clerk shall notify the department of justice of that fact and provide any information identifying the subject individual that is necessary to permit an accurate involuntary commitment record search under s. 175.35 (2g) (c) or a background check under s. 175.50 (9g) (b). No other information from the subject individual's court records may be disclosed to the department of justice except by order of the court.

SECTION 22. 51.30 (3) (a) of the statutes is amended to read:

51.30 **(3)** (a) Except as provided in pars. (b) and (c) and s. 175.50 (11) (a) 2. g. and 3. and under rules that the department of justice promulgates under s. 175.35 (2g) (c) 3. or 175.50 (9g) (f), the files and records of the court proceedings under this chapter shall be closed but shall be accessible to any individual who is the subject of a petition filed under this chapter.

SECTION 23. 55.06 (17) (d) of the statutes is created to read:

55.06 **(17)** (d) Notwithstanding par. (a), information from records described in par. (a) may be disclosed under rules that the department of justice promulgates under s. 175.35 (2g) (c) 3. or 175.50 (9g) (f).

SECTION 24. 59.25 (3) (u) of the statutes is created to read:

59.25 **(3)** (u) 1. Establish a segregated fund, the proceeds of which may be used by the county to award shooting range grants under s. 175.50 (20m).

2. Deposit into the segregated fund created under subd. 1. all moneys received under s. 175.50 (7) (bp) or (15) (b) 4. c.

3. Make payments from the fund established under subd. 1. as directed by the county.

SECTION 25. 165.25 (11) of the statutes is created to read:

165.25 **(11)** RULES REGARDING CONCEALED WEAPONS LICENSES. (a) Promulgate rules providing a procedure by which the department may file a petition under s. 175.50 (10m) and a license may be revoked under s. 175.50 (14) with respect to a person who is issued a license under s. 175.50 (9r) and who, as a result of being licensed, poses a substantial risk to others.

(b) Determine which states issue permits or licenses to carry a concealed weapon to persons who pass criminal background checks in those states and promulgate by rule a list of those states.

SECTION 26. 165.60 of the statutes is amended to read:

165.60 Law enforcement. The department of justice is authorized to enforce ss. 101.123 (2), (5), and ~~(8)~~, 175.50 (17) (c), (d), and (e), 944.30, 944.31, 944.33, 944.34, 945.02 (2), 945.03 (1m), and 945.04 (1m) and is invested with the powers conferred by law upon sheriffs and municipal police officers in the performance of those duties. This section does not deprive or relieve sheriffs, constables, and other local police officers of the power and duty to enforce those sections, and those officers shall likewise enforce those sections.

SECTION 27. 165.82 (1) (intro.) of the statutes is amended to read:

165.82 **(1)** (intro.) Notwithstanding s. 19.35 (3), the department of justice shall impose the following fees, plus any surcharge required under sub. (1m), for criminal history searches for purposes unrelated to criminal justice or to s. 175.35, 175.49, or 175.50:

SECTION 28. 165.82 (2) of the statutes is amended to read:

165.82 **(2)** ~~Except as provided in s. 175.35, the~~ The department of justice shall not impose fees for criminal history searches for purposes related to criminal justice.

SECTION 29. 167.31 (4) (ar) of the statutes is created to read:

167.31 **(4)** (ar) Subsections (2) (a), (b), and (c) and (3) (a) and (b) do not apply to the placement, possession, transportation, or loading of a firearm by any of the following:

1. A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (e) 2. to 5. and (2) (b) 1. to 3. applies.

2. A qualified out–of–state law enforcement officer, as defined in s. 941.23 (1) (e), to whom s. 941.23 (2) (b) 1. to 3. applies.

3. A retired law enforcement officer, as defined in s. 941.23 (1) (f), to whom s. 941.23 (2) (c) 1. to 7. applies.

4. A licensee, as defined in s. 175.50 (1) (d), or an out–of–state licensee, as defined in s. 175.50 (1) (g), if the firearm is handgun, as defined in s. 175.50 (1) (bm).

SECTION 30. 175.35 (1) (am) of the statutes is created to read:

175.35 **(1)** (am) "Disqualifying mental health adjudication" means one of the following events if it occurs in a proceeding that was not commenced by the person who is the subject of the proceeding and if it is based on the person having markedly subnormal intelligence or the person's mental illness, incompetency, condition, or disease:

1. An order entered by a court in this state that commits a person for treatment in an inpatient mental health facility.

2. A determination by a court in this state that a person is a danger to himself or herself or others under s. 51.20 (1) (a) 2. or lacks the mental capacity to contract or manage his or her own affairs.

SECTION 31. 175.35 (1) (at) of the statutes is amended to read:

175.35 **(1)** (at) "Firearms restrictions record search" means a search of department of justice records to determine whether a person seeking to purchase a handgun is prohibited from possessing a firearm under s. 941.29 or based on a disqualifying mental health adjudication. "Firearms restriction record search" includes a criminal history record search, a search to determine whether a person is prohibited from possessing a firearm under s. 51.20 (13) (cv), a search to determine whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian

tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 806.247 (3), and a search to determine whether the person is prohibited from possessing a firearm under s. 813.125 (4m).

SECTION 32. 175.35 (2) (d) of the statutes is amended to read:

175.35 **(2)** (d) Forty–eight hours, subject to extension under sub. (2g) (c) 4. c., have elapsed from the time that the firearms dealer has received a confirmation number regarding the firearms restrictions record search under sub. (2g) (c) from the department of justice and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29 or that the transferee would be prohibited from possessing a firearm based on a disqualifying mental health adjudication.

SECTION 33. 175.35 (2g) (c) 4. a. and b. of the statutes are amended to read:

175.35 **(2g)** (c) 4. a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29 or based on a disqualifying mental health adjudication, the department shall provide the firearms dealer with a unique nonapproval number. The department may not disclose to the firearms dealer the reason the transferee is prohibited from possessing a firearm ~~under s. 941.29~~.

b. If the search indicates that the transferee is not prohibited from possessing a firearm under s. 941.29 or based on a disqualifying mental health adjudication, the department shall provide the firearms dealer with a unique approval number.

SECTION 34. 175.35 (2k) (ar) 2. of the statutes is amended to read:

175.35 **(2k)** (ar) 2. Check each duplicate notification form received under sub. (2j) against the information recorded by the department regarding the corresponding request for a firearms restrictions record search under sub. (2g). If the department previously provided a unique approval number regarding the request and nothing

in the duplicate completed notification form indicates that the transferee is prohibited from possessing a firearm under s. 941.29 or based on a disqualifying mental health adjudication, the department shall destroy all records regarding that firearms restrictions record search within 30 days after receiving the duplicate form.

SECTION 35. 175.48 of the statutes is created to read:

175.48 Law enforcement officer identification cards. (1) In this section, "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1) (f).

(2) If a Wisconsin law enforcement agency issues photographic identification cards to its officers, it may not require an officer to relinquish his or her card upon retirement unless one of the following applies:

(a) The officer may not lawfully possess a firearm under federal law.

(b) The officer did not retire in good standing from service as a law enforcement officer with the agency or retired as a result of mental instability.

(c) The officer was regularly employed as a law enforcement officer for an aggregate of less than 15 years. This paragraph does not apply if the officer, after completing any applicable probationary period of service with the agency, retired from service with the agency due to a service–connected disability, as determined by the agency.

(d) The officer does not have a nonforfeitable right to benefits under the agency's retirement plan.

(3) Unless sub. (2) (a), (b), (c), or (d) applies, if a Wisconsin law enforcement agency does not issue photographic identification cards to its officers, it shall issue such a card to an officer formerly employed by that agency upon the former officer's request and at his or her expense.

SECTION 36. 175.49 of the statutes is created to read:

175.49 Retired law enforcement officers seeking to carry concealed weapons. **(1)** DEFINITIONS. In this section:

(a) "Department" means the department of justice.

(b) "Former employer" means a law enforcement agency that employed a retired law enforcement officer immediately before his or her retirement.

(c) "Law enforcement officer" means a person who is employed by a public agency in the United States for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest.

(2) ISSUANCE OF CERTIFICATION. Subject to sub. (3), the department shall issue and provide a retired law enforcement officer, upon request and at his or her own expense, an identification card that contains the information specified in sub. (4) (b) and that certifies all of the following:

(a) That the department has found that the retired officer has met the standards established by this state for training and qualification for active duty law enforcement officers to carry firearms.

(b) The date on which the department made the finding under par. (a).

(c) That, as a result of the finding under par. (a), the retired officer is qualified to carry any concealed firearm other than a machine gun or a firearm bearing a silencer.

(3) PREREQUISITES FOR DEPARTMENT ACTION. (a) Subsection (2) does not apply with respect to a person requesting an identification card unless all of the following apply:

1. The person retired in good standing from service as a law enforcement officer for reasons other than mental instability.

2. At least one of the following applies:

a. Before retiring, the person was regularly employed as a law enforcement officer for an aggregate of 15 years or more.

b. The person completed any applicable probationary period of service with his or her former employer and retired from service due to a service–connected disability, as determined his or her former employer.

3. The person has a nonforfeitable right to benefits under his or her former employer's retirement plan.

4. The department determines that its records do not indicate that the person is prohibited from possessing a firearm under federal law or is a person specified in s. 941.29 (1) (a), (b), (bm), (c), (d), (e), or (g).

5. The person is a resident of this state.

(b) The department may require a person to sign appropriate consents for release of information to enable it to confirm that he or she meets all of the prerequisites under this subsection for the department to act under sub. (2).

(c) In addition to other fees authorized under sub. (2), the department may require a person to pay a fee, not to exceed the department's costs, for verifying his or her employment history or retirement plan status under par. (a) 1. to 3. or making a determination under par. (a) 4.

(4) CONTENTS OF IDENTIFICATION CARD. (a) Subject to pars. (b), (c), and (d), the department shall design a single document for identification cards issued under this section. The department shall complete the design of the identification card

document no later than the first day of the 2nd month beginning after the effective date of this paragraph .... [revisor inserts date].

(b) In addition to the information certified under sub. (2), an identification card issued under this section shall contain all of the following on one side:

1. The full name, date of birth, and residence address of the retired officer.

2. A physical description of the retired officer, including sex, height, weight, and hair and eye color.

3. The name of this state.

(c) An identification card may not contain the retired officer's social security number.

(d) An identification card issued under this section shall be, to the maximum extent possible, tamper proof. The contents of the identification card shall be included in the document in substantially the same way that the contents of an operator's license document issued under s. 343.17 are included in that document.

SECTION 37. 175.50 of the statutes is created to read:

175.50 License to carry a concealed weapon. (1) DEFINITIONS. In this section:

(ab) "Alcohol beverages" has the meaning given in s. 125.02 (1).

(abm) "Alcohol concentration" has the meaning given in s. 340.01 (1v).

(ac) "Background check" means a search of department and court records conducted under sub. (9g) to determine a person's eligibility for a license to carry a concealed weapon.

(ag) Except in subs. (2g) (b) and (12g) (a) 2., "carry" means to go armed with.

(ah) "Controlled substance" means a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).

(aj) "Department" means the department of justice.

(am) "Drunk driving offense" means any of the following:

1. A violation of s. 346.63 or a local ordinance in conformity with that section.

2. A violation of a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63.

3. A violation of the law of another jurisdiction, as defined in s. 340.01 (41m), that prohibits use of a motor vehicle while intoxicated, while under the influence of a controlled substance, a controlled substance analog, or a combination thereof, with an excess or specified range of alcohol concentration, or while under the influence of any drug to a degree that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

(bm) "Handgun" means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore. "Handgun" does not include a machine gun, as defined in s. 941.27 (1), a short–barreled rifle, as defined in s. 941.28 (1) (b), or a short–barreled shotgun, as defined in s. 941.28 (1) (c).

(bq) "Intoxicant" means any alcohol beverage, controlled substance, or other drug, or any combination thereof.

(bv) "Law enforcement agency" does not include the department.

(c) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(d) "Licensee" means an individual holding a valid license to carry a concealed weapon issued under this section.

(e) "Misdemeanor crime of violence" means any of the following:

1. A misdemeanor violation of chs. 940, 941, or 948 or of s. 947.013 or a violation of s. 947.01 or of sub. (2k) (e) or (16) (cm) 1.

2. A crime under federal law or the law of another state that is comparable to a crime described in subd. 1.

(eg) "Misdemeanor delinquency adjudication" means a finding that a juvenile is delinquent for an act that would be a misdemeanor if committed by an adult.

(er) "Motor vehicle" has the meaning given in s. 340.01 (35).

(f) "Out–of–state authorization" means a valid permit document or a valid license document issued by another state if all of the following apply:

1. The permit document or license document documents that a person is authorized under the law of that state to carry a concealed weapon in that state.

2. The state is listed in the rule promulgated by the department under s. 165.25 (11).

(g) "Out–of–state licensee" means an individual who is 21 years of age or over, who is not a Wisconsin resident, who has been issued an out–of–state authorization, and who is not prohibited from possessing a firearm under s. 941.29 or from possessing a firearm that has been transported in interstate or foreign commerce under federal law.

(gm) "Photo identification card" means an operator's license issued under ch. 343 or an identification card issued under s. 343.50.

(h) "Private property" has the meaning given in s. 943.13 (1e) (e).

(i) "Proprietor" means a person to whom a Class "B" or "Class B" license or permit has been issued under ch. 125.

(ig) "Purpose of authorized analysis" means for the purpose of determining or obtaining evidence of the presence, quantity, or concentration of any intoxicant in a person's blood, breath, or urine.

16-24 AA 15

(im) "State identification card number" means the unique identifying driver number assigned to a person by the department of transportation under s. 343.17 (3) (a) 4. or, if the person presents, under sub. (6), an identification card issued under s. 343.50, the number assigned to the person on that identification card.

(is) "Test facility" means a test facility or agency prepared to administer tests under s. 343.305 (2).

(j) "Weapon" means a handgun, an electric weapon, as defined in s. 941.295 (4), a knife other than a switchblade knife under s. 941.24, or a billy club.

(2) ISSUANCE OF LICENSE. The department shall issue licenses to carry a concealed weapon to an individual who meets the qualifications specified in sub. (3) and who completes the application process specified in sub. (7). A license to carry a concealed weapon issued under this section shall meet the requirements specified in sub. (2m).

(2g) CARRYING A CONCEALED WEAPON; CARRYING AND DISPLAY OF LICENSE DOCUMENT OR AUTHORIZATION. (a) A licensee or an out–of–state licensee may carry a concealed weapon anywhere in this state except as provided under sub. (15m) or (16) or s. 941.20 (1) (b) or 943.13 (1m) (c).

(b) A licensee shall carry his or her license document and photo identification card and an out–of–state licensee shall carry his or her out–of–state authorization at all times during which he or she is going armed with a concealed weapon.

(c) If he or she is carrying a concealed weapon, a licensee shall display his or her license document and photo identification card and an out–of–state licensee shall display his or her out–of–state authorization to a law enforcement officer upon the request of the law enforcement officer.

(2i) PRELIMINARY BREATH SCREENING TEST. (a) *Requirement.* A person shall provide a sample of his or her breath for a preliminary breath screening test if a law enforcement officer has probable cause to believe that the person is violating sub. (16) (cm) 1. and if, prior to an arrest, the law enforcement officer requested that the person provide this sample.

(b) *Use of test results.* A law enforcement officer may use the results of a preliminary breath screening test for the purpose of deciding whether or not to arrest a person for a violation of sub. (16) (cm) 1. or for the purpose of deciding whether or not to request a chemical test under sub. (2k). Following the preliminary breath screening test, chemical tests may be required of the person under sub. (2k).

(c) *Admissibility.* The result of a preliminary breath screening test is not admissible in any action or proceeding except to show probable cause for an arrest, if the arrest is challenged, or to show that a chemical test was properly required of a person under sub. (2k).

(d) *Refusal.* There is no penalty for a violation of par. (a). Neither sub. (17) (b) nor the general penalty provision under s. 939.61 applies to that violation.

(2j) IMPLIED CONSENT. Any person who carries a concealed weapon in this state is deemed to have given consent to provide one or more samples of his or her breath, blood, or urine for the purpose of authorized analysis as required under sub. (2k). Any person who carries a concealed weapon in this state is deemed to have given consent to submit to one or more chemical tests of his or her breath, blood, or urine for the purpose of authorized analysis as required under sub. (2k).

(2k) CHEMICAL TESTS. (a) *Requirement.* 1. 'Samples; submission to tests.' A person shall provide one or more samples of his or her breath, blood, or urine for the purpose of authorized analysis if he or she is arrested for a violation of sub. (16) (cm)

1. and if he or she is requested to provide the sample by a law enforcement officer. A person shall submit to one or more chemical tests of his or her breath, blood, or urine for the purpose of authorized analysis if he or she is arrested for a violation of sub. (16) (cm) 1. and if he or she is requested to submit to the test by a law enforcement officer.

2. 'Information.' A law enforcement officer requesting a person to provide a sample or to submit to a chemical test under subd. 1. shall inform the person of all of the following at the time of the request and prior to obtaining the sample or administering the test:

a. That he or she is deemed to have consented to tests under sub. (2i).

b. That a refusal to provide a sample or to submit to a chemical test constitutes a violation under par. (e) and is subject to the same penalties and procedures as a violation of sub. (16) (cm) 1.

c. That in addition to the designated chemical test under par. (b) 2. he or she may have an additional chemical test under par. (c) 1.

3. 'Unconscious person.' A person who is unconscious or otherwise not capable of withdrawing consent is presumed not to have withdrawn consent under this paragraph, and if a law enforcement officer has probable cause to believe that the person violated sub. (16) (cm) 1., one or more chemical tests may be administered to the person without a request under subd. 1. and without providing information under subd. 2.

(b) *Chemical tests.* 1. 'Test facility.' Upon the request of a law enforcement officer, a test facility shall administer a chemical test of breath, blood, or urine for the purpose of authorized analysis. A test facility shall be prepared to administer 2 of the 3 chemical tests of breath, blood, or urine for the purpose of authorized

analysis. The department may enter into agreements for the cooperative use of test facilities.

2. 'Designated chemical test.' A test facility shall designate one chemical test of breath, blood, or urine which it is prepared to administer first for the purpose of authorized analysis.

3. 'Additional chemical test.' A test facility shall specify one chemical test of breath, blood, or urine, other than the test designated under subd. 2., which it is prepared to administer for the purpose of authorized analysis as an additional chemical test.

4. 'Validity; procedure.' A chemical test of blood or urine conducted for the purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties and responsibilities of the laboratory of hygiene, department of health and family services, and department of transportation under s. 343.305 (6) apply to a chemical test of blood or urine conducted for the purpose of authorized analysis under this subsection. Blood may be withdrawn from a person arrested for a violation of sub. (16) (cm) 1. only by a physician, registered nurse, medical technologist, physician assistant, or person acting under the direction of a physician and the person who withdraws the blood, the employer of that person, and any hospital where blood is withdrawn have immunity from civil or criminal liability as provided under s. 895.53.

5. 'Report.' A test facility which administers a chemical test of breath, blood, or urine for the purpose of authorized analysis under this subsection shall prepare a written report which shall include the findings of the chemical test, the identification of the law enforcement officer or the person who requested a chemical test, and the identification of the person who provided the sample or submitted to the

chemical test. The test facility shall transmit a copy of the report to the law enforcement officer and the person who provided the sample or submitted to the chemical test.

(c) *Additional and optional chemical tests.* 1. 'Additional chemical test.' If a person is arrested for a violation of sub. (16) (cm) 1. and if the person is requested to provide a sample or to submit to a test under par. (a) 1., the person may request the test facility to administer the additional chemical test specified under par. (b) 3. or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood, or urine for the purpose of authorized analysis.

2. 'Optional test.' If a person is arrested for a violation of sub. (16) (cm) 1. and if the person is not requested to provide a sample or to submit to a test under par. (a) 1., the person may request the test facility to administer a chemical test of his or her breath or, at his or her own expense, reasonable opportunity to have any qualified person administer a chemical test of his or her breath, blood, or urine for the purpose of authorized analysis. If a test facility is unable to perform a chemical test of breath, the person may request the test facility to administer the designated chemical test under par. (b) 2. or the additional chemical test under par. (b) 3.

3. 'Compliance with request.' A test facility shall comply with a request under this paragraph to administer any chemical test that it is able to perform.

4. 'Inability to obtain chemical test.' The failure or inability of a person to obtain a chemical test at his or her own expense does not preclude the admission of evidence of the results of a chemical test required and administered under pars. (a) and (b).

(d) *Admissibility; effect of test results; other evidence.* The results of a chemical test required or administered under par. (a), (b), or (c) are admissible in any civil or criminal action or proceeding arising out of the acts committed by a person alleged to have violated sub. (16) (cm) 1. on the issue of whether the person had alcohol concentrations at or above specified levels or was under the influence of an intoxicant. Results of these chemical tests shall be given the effect required under s. 885.235. This subsection does not limit the right of a law enforcement officer to obtain evidence by any other lawful means.

(e) *Refusal.* No person may refuse a lawful request to provide one or more samples of his or her breath, blood, or urine or to submit to one or more chemical tests under par. (a). A person shall not be deemed to refuse to provide a sample or to submit to a chemical test if it is shown by a preponderance of the evidence that the refusal was due to a physical inability to provide the sample or to submit to the test due to a physical disability or disease unrelated to the use of an intoxicant. Issues in any action concerning a violation of par. (a) or this paragraph are limited to:

1. Whether the law enforcement officer had probable cause to believe the person was violating or had violated sub. (16) (cm) 1.

2. Whether the person was lawfully placed under arrest for violating sub. (16) (cm) 1.

3. Whether the law enforcement officer requested the person to provide a sample or to submit to a chemical test and provided the information required under par. (a) 2. or whether the request and information were unnecessary under par. (a) 3.

4. Whether the person refused to provide a sample or to submit to a chemical test.

(2m) LICENSE DOCUMENT; CONTENT OF LICENSE. (a) Subject to pars. (b), (c), and (d), the department shall design a single license document for licenses issued and renewed under this section. The department shall complete the design of the license document no later than the first day of the 2nd month beginning after the effective date of this paragraph .... [revisor inserts date].

(b) A license document for a license issued under this section shall contain all of the following on one side:

1. The full name, date of birth, and residence address of the licensee.

2. A physical description of the licensee, including sex, height, weight, and hair and eye color.

3. The date on which the license was issued.

4. The date on which the license expires.

5. The name of this state.

6. A unique identification number for each licensee.

(c) The license document may not contain the licensee's social security number.

(d) A license document issued under this section shall be, to the maximum extent possible, tamper proof. The contents of the license document shall be included in the document in substantially the same way that the contents of an operator's license document issued under s. 343.17 are included in that document.

(3) QUALIFICATIONS FOR OBTAINING A LICENSE. An individual is eligible for a license under this section if all of the following apply:

(a) The individual is at least 21 years of age.

(b) The individual does not have a severe physical disability that prevents him or her from safely handling a weapon and that, if the individual were handling a weapon, would cause the individual to a pose a significant public safety risk. The

department may determine that a person is ineligible for a license under this paragraph only if the form that the person has submitted under (7) (d) does not indicate that the person is eligible. The department may override an indication on a form submitted under sub. (7) (d) that a person is not eligible for a license under this paragraph. This paragraph does not apply to a person certified under sub. (3m) (b) as an instructor of a firearm training or firearm safety course or class.

(c) The individual is not prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce.

(d) The individual is not prohibited from possessing a firearm under s. 941.29.

(e) During the preceding 3 years, the individual has not been committed under s. 51.20 for being drug dependent.

(f) During the preceding 3 years, the individual has not been convicted for any violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch. 961 or of a federal law or a law of another state that is comparable to any provision of ch. 961.

(g) The individual does not chronically and habitually use alcohol beverages or other substances to the extent that his or her normal faculties are impaired. A person is presumed chronically and habitually to use alcohol beverages or other substances to the extent that his or her normal faculties are impaired if, within the preceding 3 years, any of the following applies:

1. The individual has been committed for involuntary treatment under s. 51.45 (13).

2. The individual has been convicted of a violation of s. 941.20 (1) (b).

3. In 2 or more cases arising out of separate incidents, a court has found the individual to have committed a drunk driving offense.

(h) 1. The individual has done one of the following:

a. Successfully completed a firearm training or firearm safety course or class that meets the requirements of sub. (3m) (a) and that is conducted by an instructor certified by the state in which the course or class was conducted or by a national or state organization that certifies firearms instructors.

b. Participated in organized shooting competitions or military, law enforcement, or security training that gave the applicant experience with firearms that the department determines is substantially equivalent to any course or class that meets the requirements of sub. (3m) (a).

c. Been certified as described under sub. (3m) (b) as an instructor of a firearm training or firearm safety course or class.

2. If subd. 1. a. or b. applies, the person providing the training or organizing a shooting competition in which the person has competed shall complete the form designed by the department under sub. (5) (b).

(i) The individual has not been found incompetent under ch. 880 or, if the individual has been found incompetent under ch. 880, he or she was subsequently found to be competent and at least 5 years have elapsed from the date that he or she was found to be competent.

(im) The individual was not the subject of a protective placement under s. 55.06 as a minor unless at least 5 years have elapsed from the date on which his or her protective placement ended.

(j) The individual has not been involuntarily committed for treatment under s. 51.20 due to mental illness or a developmental disability or, if the individual has been involuntarily committed for treatment under s. 51.20 due to mental illness or a developmental disability, he or she shows, through evidence from a psychiatrist

licensed in this state, that he or she has not been disabled due to mental illness or a developmental disability for at least 5 years.

(k) The individual has not been found incompetent under s. 971.14 or, if the individual has been found incompetent under s. 971.14, one of the following applies:

1. He or she was subsequently found to be competent and at least 5 years have elapsed from the date that he or she was found to be competent.

2. He or she was not subsequently found to be competent and he or she shows, through evidence from a psychiatrist licensed in this state, that he or she has not been disabled due to mental illness or a developmental disability for at least 5 years.

(L) The individual has not been found not guilty by reason of mental disease or defect under s. 971.17 or, if the individual has been found not guilty by reason of mental disease or defect under s. 971.17, he or she presents evidence from a psychiatrist licensed in this state that he or she has not been disabled due to mental illness or a developmental disability for at least 5 years.

(m) Within the preceding 3 years, the individual was not convicted of a misdemeanor crime of violence or was not serving a sentence, on probation, or subject to a dispositional order under ch. 938 for committing a misdemeanor crime of violence.

(mm) The individual has not been convicted of a misdemeanor violation of s. 940.32, 1999 stats., or a misdemeanor violation of a federal law or a law of another state that is comparable to s. 940.32.

(mr) The individual has not been prohibited from obtaining a license under sub. (10m) based on the individual having committed a misdemeanor crime of violence.

(n) The individual has not been charged with a felony or a misdemeanor crime of violence for which the prosecution was suspended under a deferred prosecution agreement unless 3 years have elapsed since the date of the agreement.

(o) The individual is not the subject of any pending civil or criminal case, the disposition of which could disqualify him or her from having a license under this subsection.

(p) The individual has not previously submitted an application for a license under this section and had the application denied, unless each reason for the denial is no longer applicable because of changed circumstances or, if the denial was based on a restriction under this subsection that applies for a specified period of time, because that time period has run.

(q) The individual has not had a license that was issued under this section revoked, unless each reason for the revocation is no longer applicable because of changed circumstances or, if the revocation was based on a restriction under this subsection that applies for a specified period of time, because that time period has run.

(r) Within the preceding 3 years, the individual was not convicted under sub. (17) (c), (d), or (e) and was not serving a sentence, on probation, or subject to a dispositional order under ch. 938 for committing an offense under sub. (17) (c), (d), or (e).

(s) The individual is a Wisconsin resident.

(3m) COURSE OR CLASS REQUIREMENTS. (a) A firearm training or firearm safety course or class under sub. (3) (h) 1. a. shall consist of all of the following:

1. Instruction on how to handle, load, unload, and store handguns.

2. Instruction on the privilege of self–defense and the defense of others under s. 939.48.

3. Instruction on how to avoid injuring 3rd parties when defending himself, herself, or others in a manner that is privileged under s. 939.48.

4. Instruction on basic self–defense principles.

5. Instruction on how to carry a concealed handgun safely.

6. Instruction on firing a handgun.

7. Practice firing a handgun.

(am) The department may not specify the number of hours of instruction, either in the aggregate or with respect to any of the individual topics specified in par. (a) 1. to 7., that a course or class must provide.

(b) The department shall certify instructors who are qualified to teach a course or class described in par. (a) and maintain a list of instructors that it certifies. To be certified by the department as an instructor, a person must meet all of the following criteria:

1. Be qualified under sub. (3) to carry a concealed weapon.

2. Be able to demonstrate the ability and knowledge required for instructing students under par. (a) 1. to 7.

(5) APPLICATION, RENEWAL, AND TRAINING FORMS. (a) The department shall design an application form for use by individuals who apply for a license under this section and a renewal form for use by individuals applying for renewal of a license under sub. (15). The department shall complete the design of the application form no later than the first day of the 2nd month beginning after the effective date of this subsection .... [revisor inserts date], and shall complete the design of the renewal form no later than the first day of the 36th month beginning after the effective date of this subsection

.... [revisor inserts date]. The forms shall require the applicant to provide only his or her name, address, date of birth, state identification card number, race, sex, height, weight, and hair and eye color and the registration number for each motor vehicle registered in the applicant's name and shall include all of the following:

1. A statement that the applicant is eligible for a license if the requirements specified in sub. (3) are met.

2. A statement explaining the privilege of self–defense and defense of others under s. 939.48, with a place for the applicant to sign his or her name to indicate that he or she has read and understands the statement.

3. A statement, with a place for the applicant to sign his or her name, to indicate that the applicant has read and understands the requirements of this section.

4. A statement that the application must include the notarized statement described under sub. (7) (b) and that an applicant may be prosecuted if he or she gives a false answer to any question on the application or submits a falsified document with the application.

5. A statement of the penalties for giving a false answer to any question on the application or submitting a falsified document with the application.

(b) The department shall design a form for use by individuals listed in sub. (3) (h) 2. to verify a person's eligibility for a license under sub. (3) (b) and (h) 1. The form shall provide for verification of a person's eligibility under sub. (3) (b) by providing a space for the individual completing the form to check a box indicating whether the person is eligible for a license under sub. (3) (b).

(c) The department shall make the forms described in this subsection available on the Internet or by mail upon request.

(6) REVIEW BY NOTARY. Before a person submits an application under sub. (7), the person shall display a valid license document or identification card that he or she has been issued under s. 343.17 or 343.50 to the notary who is to notarize the statement required under sub. (7) (b). Before notarizing that statement, the notary shall verify the person's identity using that license document or identification card and verify that the name and state identification card number listed on the license document or identification card are the same as the name and state identification card number listed on the application.

(7) SUBMISSION OF APPLICATION. An individual may apply for a license under this section with the department by submitting to the department all of the following:

(a) A completed application in the form prescribed under sub. (5) (a).

(b) A notarized statement that states that the information that he or she is providing in the application submitted under par. (a) and any document submitted with the application is true and complete to the best of his or her knowledge.

(bd) A license fee of $52.

(bh) A fee for a background check of $8.

(bp) A shooting range improvement fee of $15 written as a separate check, made out to the applicant's county of residence, that the department shall forward to that county on at least a quarterly basis.

(d) A training certificate, in the form created by the department under sub. (5) (b), that is completed by the person specified in sub. (3) (h) 2. and that shows that the person is eligible for a license under sub. (3) (b) and (h) 1. This paragraph does not apply to a person certified under sub. (3m) (b) as an instructor of a firearm training or firearm safety course or class.