

State of Wisconsin



2007 Assembly Bill 198

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2007 WISCONSIN ACT 27

AN ACT to renumber and amend 165.83 (1) (e) and 165.85 (2) (g); **to amend** 23.29 (23), 23.293 (19), 23.33 (4) (c) 1., 23.33 (12) (b), 23.51 (3), 30.64, 175.40 (1) (c), 340.01 (3) (b), 341.17 (9) (c) 2., 343.235 (3) (a), 343.237 (4), 350.02 (3m), 350.17 (2), 939.22 (22), 940.20 (2), 941.20 (1m) (b), 941.20 (3) (b) 1. a., 941.23, 941.235 (2), 941.26 (4) (c) 2., 941.29 (10) (a), 941.295 (2) (a), 941.2965 (3) (a), 941.298 (3) (a), 941.299 (2) (a), 941.31 (2) (c), 948.55 (4) (d), 948.605 (2) (b) 6., 948.605 (3) (b) 4. and 948.61 (3) (c); and **to create** 165.83 (1) (e) 2., 165.85 (2) (g) 2., 175.41, 340.01 (8t), 340.01 (8u), 341.17 (4) (h), 939.22 (5), 939.22 (37) and 941.237 (1) (dr) of the statutes; **relating to:** conservation wardens employed by the Great Lakes Indian Fish and Wildlife Commission.

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

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

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

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

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

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

23.33 (4) (c) 1. Paragraphs (a) and (b) do not apply to the operator of an all-terrain vehicle owned by a

municipality, state agency, or public utility, or by the Great Lakes Indian Fish and Wildlife Commission, while the operator is engaged in an emergency or in the operation of an all-terrain vehicle directly related to the functions of the municipality, state agency, or public utility, or of the Great Lakes Indian Fish and Wildlife Commission, if safety does not require strict adherence to these restrictions.

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

30.64 Patrol boats. (1) The operator of a patrol boat, including a commission warden, as defined in s. 939.22 (5), when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, need not comply with this subchapter or ordinances under s. 30.77 when a siren or emergency light is activated or, if the patrol boat is equipped with a siren and an emergency light, when both the siren and emergency light are activated, and if due regard is given to the safety of other persons in the vicinity. If an emergency light is used, it shall be of a type and design specified under 33 CFR 88.11 or 88.12.

(2) Upon the approach of a patrol boat, including a patrol boat operated by a commission warden, as defined in s. 939.22 (5), giving an audio or visual signal, the operator of a boat shall reduce the boat speed to slow-no-wake and yield the right-of-way to the patrol boat until it has passed.

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

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

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

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

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

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

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

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

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

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

165.85 (2) (g) 2. A conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission

who agrees to accept the duties of law enforcement officers under the laws of this state.

SECTION 11. 175.40 (1) (c) of the statutes is amended to read:

175.40 (1) (c) “Peace officer” has the meaning specified in s. 939.22 (22), but also does not include a commission warden, as defined in s. 939.22 (5). “Peace officer” includes any tribal law enforcement officer who is empowered to act under s. 165.92 (2) (a).

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

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

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

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

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

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

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

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

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

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

(b) Any of the following applies:

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

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

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

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

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

(d) The commission has adopted and implemented written policies regarding making arrests and rendering aid or assistance under this subsection, including a policy on notification to and cooperation with the law enforcement agency of the jurisdiction in which such arrests are made.

(e) The commission maintains liability insurance that does all of the following:

1. Covers the commission and commission wardens for acts and omissions under sub. (4).
2. Has a limit of coverage not less than \$2,000,000 for any occurrence.
3. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

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

(5) Subsections (2) and (3) apply only if the commission has presented evidence to the department of justice of the insurance under sub. (3) (e). Upon receipt of evidence of insurance under sub. (3) (e), the department of justice shall notify the sheriff of each county in the ceded territory that the commission has met this criterion for performing the powers and duties described under subs. (2) and (3).

SECTION 13. 340.01 (3) (b) of the statutes is amended to read:

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

SECTION 14. 340.01 (8t) of the statutes is created to read:

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

SECTION 15. 340.01 (8u) of the statutes is created to read:

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

SECTION 16. 341.17 (4) (h) of the statutes is created to read:

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

SECTION 17. 341.17 (9) (c) 2. of the statutes is amended to read:

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

SECTION 18. 343.235 (3) (a) of the statutes is amended to read:

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

SECTION 19. 343.237 (4) of the statutes is amended to read:

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

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

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

SECTION 20. 350.02 (3m) of the statutes is amended to read:

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

SECTION 21. 350.17 (2) of the statutes is amended to read:

350.17 (2) No person operating a snowmobile shall refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in s. 939.22 (5).

SECTION 22. 939.22 (5) of the statutes is created to read:

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

SECTION 23. 939.22 (22) of the statutes is amended to read:

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

SECTION 24. 939.22 (37) of the statutes is created to read:

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

SECTION 25. 940.20 (2) of the statutes is amended to read:

940.20 (2) BATTERY TO LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS, AND COMMISSION WARDENS. Whoever intentionally causes bodily harm to a law enforcement officer or fire fighter, as those terms are defined in s. 102.475 (8) (b) and (c), or to a commission warden, acting in an official capacity and the person knows or has reason to know that the victim is a law enforcement officer ~~or~~, fire fighter, or commission warden, by an act done

without the consent of the person so injured, is guilty of a Class H felony.

SECTION 26. 941.20 (1m) (b) of the statutes is amended to read:

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

SECTION 27. 941.20 (3) (b) 1. a. of the statutes is amended to read:

941.20 (3) (b) 1. a. A peace officer, except for a commission warden who is not a state-certified commission warden.

SECTION 28. 941.23 of the statutes is amended to read:

941.23 Carrying concealed weapon. Any person except a peace officer who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor. Notwithstanding s. 939.22 (22), for purposes of this section, peace officer does not include a commission warden who is not a state-certified commission warden.

SECTION 29. 941.235 (2) of the statutes is amended to read:

941.235 (2) This section does not apply to peace officers or armed forces or military personnel who go armed in the line of duty or to any person duly authorized by the chief of police of any city, village or town, the chief of the capitol police, or the sheriff of any county to possess a firearm in any building under sub. (1). Notwithstanding s. 939.22 (22), for purposes of this subsection, peace officer does not include a commission warden who is not a state-certified commission warden.

SECTION 30. 941.237 (1) (dr) of the statutes is created to read:

941.237 (1) (dr) Notwithstanding s. 939.22 (22), "peace officer" does not include a commission warden who is not a state-certified commission warden.

SECTION 31. 941.26 (4) (c) 2. of the statutes is amended to read:

941.26 (4) (c) 2. Any peace officer acting in his or her official capacity. Notwithstanding s. 939.22 (22), for purposes of this subdivision, peace officer does not include a commission warden who is not a state-certified commission warden.

SECTION 32. 941.29 (10) (a) of the statutes is amended to read:

941.29 (10) (a) The person is a peace officer and the person possesses a firearm while in the line of duty or, if required to do so as a condition of employment, while off duty. Notwithstanding s. 939.22 (22), for purposes of this

paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.

SECTION 33. 941.295 (2) (a) of the statutes is amended to read:

941.295 (2) (a) Any peace officer. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.

SECTION 34. 941.2965 (3) (a) of the statutes is amended to read:

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

SECTION 35. 941.298 (3) (a) of the statutes is amended to read:

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

SECTION 36. 941.299 (2) (a) of the statutes is amended to read:

941.299 (2) (a) Intentionally direct a beam of light from a laser pointer at any part of the body of a correctional officer or law enforcement officer, or commission warden without the officer's consent, if the person knows or has reason to know that the victim is a correctional officer or law enforcement officer, or commission warden who is acting in an official capacity.

SECTION 37. 941.31 (2) (c) of the statutes is amended to read:

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

SECTION 38. 948.55 (4) (d) of the statutes is amended to read:

948.55 (4) (d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person's duties. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.

SECTION 39. 948.605 (2) (b) 6. of the statutes is amended to read:

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

SECTION 40. 948.605 (3) (b) 4. of the statutes is amended to read:

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

official capacity.

SECTION 41. 948.61 (3) (c) of the statutes is amended to read:

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