



JOINT COMMITTEE FOR THE REVIEW OF ADMINISTRATIVE RULES

COMMITTEE CO-CHAIRS: SENATOR LEAH VUKMIR AND REPRESENTATIVE JIM OTT

Chs Jus 17 & 18

Report to the Legislature Emergency Rule 1114 (Chs Jus 17&18) The Joint Committee for Review of Administrative Rules

Produced pursuant to 227.26(2)(g), Stats.

Chapters Jus 17 and 18, promulgated by the Department of Justice, create rules for licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; and the certification of firearms safety and training instructors.

Description of Problem

At the request of Representatives Scott Suder and Eric Severson, the Joint Committee for Review of Administrative Rules (JCRAR) held a public hearing on chs. Jus 17 and 18 relating to implementation of the conceal and carry permit program on November 7, 2011. Chapters Jus 17 and 18 were created in response to 2011 Wisconsin Act 35 that required the Department of Justice to create a program that collects applications, performs background checks, and issues conceal and carry permits. At the public hearing, concerns were raised over the hourly training requirement, the proficiency test, and the items included in the training certificate that were included in EmR 1114, but were not specifically included in Act 35.

Arguments in Favor of Suspension

- *The Legislature did not specifically set an hourly training requirement in Wisconsin Act 35 and did not give the Department of Justice the power to set that number in rule. Suspending the four hour requirement is consistent with legislative intent.*
- *In Act 35, S. 175.60(2)(b) states "the department may not impose conditions, limitations, or requirements that are not expressly provided for in this section on the issuance, scope, effect, or content of a license." The hourly training requirement and testing requirement are obvious conditions that were not expressly provided for in the legislation that were placed in the rule by the Department of Justice. They should not have been included.*

- *Citizens and instructors are the best judges of what classes fit their needs. Whether it is someone that has been around guns their entire life or someone that has never picked up a gun, it is inappropriate for the Department of Justice to set a blanket policy to cover everyone.*
- *Individuals that have taken training classes in other states before EmR 1114 was promulgated have training certificates that do not contain all the information required by the rule. In many cases, it will be impossible for them to receive new certificates. EmR 1114 places an undue hardship on individuals that had received their training prior to the issuance of this rule.*

Arguments Against Suspension

- *Many other states have set minimum training hours or specific training classes that meet that state's training requirement. The four hour requirement in EmR 1114 is one of the least onerous requirements in the nation.*
- *Without a minimum four hour standard, the definition of a "firearms safety or training course" could be legally challenged.*
- *Wisconsin needs to make it harder not easier to get a concealed weapon permit. Four hours is the bare minimum and should be increased to protect the public from untrained individuals with concealed weapons.*

Action by Joint Committee for Review of Administrative Rules

On November 7, 2011, the Joint Committee for Review of Administrative Rules held an executive session on Chs. Jus 17 & 18. The committee passed the following motion on a 7-3 vote (YES: Vukmir, Ott, Leibham, Grothman, LeMahieu, Kramer, & Sen. Taylor; NO: Rep. Taylor, Kessler, Risser):

"That the Joint Committee for Review of Administrative Rules suspend the following provisions included in Emergency Rule 1114, pursuant to s. 227.26 (2) (d), Stats., effective November 7, 2011, on the basis of testimony received at its November 7, 2011 meeting, and on the grounds that these provisions included in Emergency Rule 1114 fail to comply with legislative intent as stated in s. 227.19 (4) (d) 3, Stats.

Jus 17.03 (8): *"Firearms safety or training course" means a course that is reasonably calculated to instruct, practice, ~~and test~~ the student's comprehension and application of firearm safety rules and safe firearm handling, that includes ~~at least four hours of~~ instructor-led training, and that provides a certificate or affidavit of successful completion that satisfies the content requirements of s. Jus 17.05(2).*

Jus 17.03 (13): *"National or state organization that certifies firearms instructors" means any association, partnership, corporation, or limited liability company that is registered, certified, or has an appointed agent on file with the department of financial institutions or has equivalent legal recognition in another state; ~~that requires firearms instructors to successfully complete instructor training of at least eight hours in length;~~ and that requires instructors to demonstrate the ability and knowledge required for providing firearms safety and training."*

The committee passed the following motion on a 6-4 vote (YES: Vukmir, Ott, Leibham, Grothman, LeMahieu, & Kramer; NO: Rep. Taylor, Kessler, Risser, & Sen. Taylor):

“That the Joint Committee for Review of Administrative Rules suspend the following provisions included in Emergency Rule 1114, pursuant to s. 227.26 (2) (d), Stats., effective November 7, 2011, on the basis of testimony received at its November 7, 2011 meeting, and on the grounds that these provisions included in Emergency Rule 1114 fail to comply with legislative intent and impose an undue hardship as stated in s. 227.19 (4) (d) 3 & 6, Stats.

Jus 17.05 (2): *Except as otherwise provided in sub. (1), for purposes of satisfying the requirements of sub.(1)(b),(c),(d),(e),(f), or (g), a certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course must include all of the following information:*

- (a) *The applicant's name.*
- (b) *The name of the firearms safety or training course.*
- ~~(c) *The length in hours of the firearms safety or training course.*~~
- (d) *The date in which the applicant completed the firearms safety or training course.*
- ~~(e) *The city and state in which the applicant completed the firearms safety or training course.*~~
- ~~(f) *The name, address, and telephone number of the person or entity responsible for the firearms safety or training course. This may be an individual instructor, a national or state organization, a law enforcement agency, an educational institution, a firearms training school, or another public or private institution or organization.*~~
- (g) *The name of the instructor who taught the firearms safety or training course to the applicant and the name of the agency or organization that certified the instructor.*
- ~~(h) *A signed statement by the instructor who taught the firearms safety or training course to the applicant affirming that the course satisfied the definition of a firearms safety or training course in s. Jus 17.03(8) and that the applicant successfully complete the course. An affirmation that the applicant merely attended the course is not sufficient to satisfy this requirement.*~~

The effect of the JCRAR suspension is the elimination of a minimum hourly requirement for a training course, the elimination of a testing requirement, and a simplification of the testing certificate.

On December 6, 2011, the Joint Committee for Review of Administrative Rules voted 6-4 (YES: Vukmir, Ott, Leibham, Grothman, LeMahieu, & Meyer; NO: Hebl, Kessler, Risser, Taylor) to introduce LRB 3547/1 and LRB 3512/1, which would eliminate the hourly training requirement, eliminate the testing requirement, and limit the required information needed on the testing certificate.

Passage of one of the bills in support of the JCRAR suspension would simplify the requirements individuals need to meet in order to obtain a conceal and carry permit.