

# State of Wisconsin



2017 Assembly Bill 820

Date of enactment: **March 28, 2018**

Date of publication\*: **March 29, 2018**

## 2017 WISCONSIN ACT 179

AN ACT to create 23.43 and 895.08 of the statutes; relating to: closure of a sport shooting range based on an unsafe condition.

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

SECTION 1. 23.43 of the statutes is created to read:

**23.43 Entities qualified to evaluate the safety of sport shooting ranges.** (1) In this section, "sport shooting range" has the meaning given in s. 895.527 (1).

(2) The department shall establish and post on its Internet site a list of professional engineers, architects, and certified range technicians who are qualified to evaluate a sport shooting range to identify any deficiencies in public safety measures employed, as compared with general safe range design and operation practices, and to recommend solutions to any deficiencies found. If the department receives a request that a person or organization be added to the list under this section, the department shall evaluate the qualifications of the person or organization to perform the relevant functions.

SECTION 2. 895.08 of the statutes is created to read:

**895.08 Sport shooting ranges; actions related to safety.** (1) DEFINITIONS. In this section:

(a) "Clear and immediate public safety hazard" means an unsafe condition that originates from, or is at, a sport shooting range and that could reasonably be expected to cause death or serious injury to an individual.

(b) "Local unit of government" means the governing body of a county, city, town, village, or the elected tribal

governing body of a federally recognized American Indian tribe or band in this state.

(c) "Sport shooting range" has the meaning given in s. 895.527 (1).

(2) TEMPORARY CLOSURE. (a) Except as provided in par. (b), no law enforcement officer or court may require the owner or operator of a sport shooting range to cease or suspend any portion of its operation, the use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range because of an alleged or actual unsafe condition at, or originating from, the sport shooting range.

(b) 1. A court may, upon petition by a law enforcement officer, temporarily order the owner or operator of a sport shooting range to cease or suspend a portion of its operation, the use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range if it finds that there is probable cause to believe that the portion of the operation, the use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range constitutes a clear and immediate public safety hazard.

2. A court may, upon petition by a local unit of government or an individual, temporarily order the owner or operator of a sport shooting range to cease or suspend a

\* Section 991.11, WISCONSIN STATUTES: 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."

portion of its operation, the use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range if the court finds, upon a preponderance of the evidence presented, that the portion of the sport shooting range's operation, the use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range constitutes a clear and immediate public safety hazard.

3. There is a rebuttable presumption that no portion of a sport shooting range's operation, use of a particular firearm type at the sport shooting range, or conduct of a particular activity at the sport shooting range constitutes a clear and immediate public safety hazard.

(3) CONTINUING OPERATIONS. (a) An owner or operator of a sport shooting range who has been ordered by a court under sub. (2) to temporarily cease or suspend a portion of its operation, the use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range may arrange for an evaluation of the sport shooting range by an entity designated by the department of natural resources under s. 23.43 as qualified to evaluate the sport shooting range. The evaluation shall identify any deficiencies in public safety measures employed at the range as compared to general safe range design and operation practices and provide recommendations to rectify any deficiencies that exist. The entity's report on the findings of the evaluation shall be submitted to the court upon completion of the evaluation.

(b) After receiving a report under par. (a) that states that no deficiencies in public safety measures employed at the range as compared to general safe range design and operation practices exist, the court shall rescind the order issued under sub. (2) and dismiss the proceedings.

(c) After receiving a report under par. (a) that identifies any deficiency in public safety measures employed at the range as compared to general safe range design and operation practices that poses a clear and immediate public safety hazard, the court shall allow the range owner or operator to provide proof that such deficiencies have been remedied. If the range owner or operator provides proof that the deficiencies have been remedied, the court shall rescind the order issued under sub. (2) and dismiss the proceedings.

(d) After receiving a report under par. (a) that identifies any deficiency in public safety measures employed at the range as compared to general safe range design and operation practices that poses a clear and immediate public safety hazard and that cannot be remedied in the range's location, the court may order permanent cessation of a portion of the sport shooting range operation, use of a particular firearm type at the sport shooting range, or the conduct of a particular activity at the sport shooting range to which the deficiency applies.

(e) If a court dismisses a petition on the grounds that the petitioner failed to demonstrate that a portion of a sport shooting range's operation constitutes a clear and immediate public safety hazard, or if the court rescinds an order issued under sub. (2) on the grounds that a report filed under par. (a) finds no deficiencies in public safety measures employed at the range as compared to general safe range design and operation practices that constitute a clear and immediate public safety hazard, the court may order the petitioner to pay the defending party's costs of litigation, including reasonable attorneys fees and consultant fees.

**SECTION 3. Initial applicability.**

(1) This act first applies retroactively to a petition filed or an order entered against a sport shooting range before the effective date of this subsection.