

1999 DRAFTING REQUEST

Bill

Received: **03/3/99**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Jerry Petrowski (608) 266-1182**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - fish and game**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Restrictions on gun possession before opening of deer hunting season

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rkite 03/17/99	chanaman 03/17/99	martykr 03/18/99	_____	lrb_docadmin 03/18/99	lrb_docadmin 04/15/99	

FE Sent For:

<END>

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1/?	rkite	cmh / 1 3/17	km/8 3	HH 3 cm/8			

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<END>



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: February 8, 1999
TO: REPRESENTATIVE JERRY PETROWSKI
FROM: Mark C. Patronsky, Senior Staff Attorney
SUBJECT: Bill Draft Regarding the Sighting of Firearms Prior to the Opening Date for the Deer Gun Season

This memorandum, and the attached bill draft, are in response to your request for draft legislation to permit the sighting of guns under certain circumstances on the day prior to the opening date of the deer gun season. The attached bill draft, WLCS: 0023/1 is intended to accomplish this purpose.

Current Regulations

The current statutes do not impose restrictions on the possession of guns prior to the deer gun season. These regulations are currently established by the Department of Natural Resources (DNR) in administrative rules. Section NR 10.09, Wis. Adm. Code, which pertains generally to guns, ammunition and other devices, establishes the following restriction:

NR 10.09 (2) SPECIAL ONE-DAY RESTRICTION. During the 24-hour period prior to the opening date for hunting deer with guns, no person shall possess a gun wherein there is an open season for deer with guns unless the gun is unloaded and enclosed within a carrying case. Exceptions:

- (a) Target shooting at established ranges.
- (b) Hunting on licensed game farms and shooting preserves.
- (c) Hunting waterfowl during the open season.

This is the entire regulation. The rule does not provide an exception for sighting firearms.

WLCS: 0023/1, Relating to Establishing a Restriction on the Possession of Guns in the 24-Hour Period Prior to the Opening of the Deer Gun Season, and Providing Exceptions to the Restriction

WLCS: 0023/1 provides an additional exception to the current rule on possession of guns prior to the deer gun season. The new exception allows sighting a gun by a person or a member of the person's immediate family on land under the management and control of the person's immediate family.

Legislation cannot directly create exceptions to administrative rules. Therefore, WLCS: 0023/1 incorporates the provisions of s. NR 10.09 (2), Wis. Adm. Code, into the statutes, and adds the additional exception regarding sighting a gun.

The bill draft incorporates by cross-reference the definitions of "immediate family" and "land under the management and control of the person's immediate family" from the all-terrain vehicle statute. These definitions are as follows:

23.33 (1) (h) "Immediate family" means persons who are related as spouses, as siblings or as parent and child.

(if) "Land under the management and control of a person's immediate family" means land owned or leased by the person or a member of the person's immediate family over which the owner or lessee has management and control. This term excludes land owned or leased by an organization of which the person or a member of the person's immediate family is a member.

If this bill draft meets your needs, it should be taken promptly to the Legislative Reference Bureau for drafting in introduceable form. If you would like any changes made to the bill draft before submitting it to the Legislative Reference Bureau, I will be pleased to provide any assistance that is necessary. If you have any other questions, please feel free to contact me.

MCP:ksm;wu

Attachment

1 **AN ACT** to renumber 29.311; and to create 29.311 (title) and 29.311 (2) of the
2 statutes; relating to: establishing a restriction on the possession of guns in the
3 24-hour period prior to the opening of the deer gun season, and providing exceptions
4 to the restriction.

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

5 **SECTION 1.** 29.311 (title) of the statutes is created to read:

6 **29.311 (title) Guns and Ammunition.**

7 **SECTION 2.** 29.311 of the statutes is renumbered 29.311 (1).

8 **SECTION 3.** 29.311 (2) of the statutes is created to read:

9 **29.311 (2) POSSESSION OF GUNS PRIOR TO DEER SEASON.** (a) During the 24-hour period
10 prior to the earliest time for hunting on the opening date for hunting deer with guns, no person
11 may possess a gun in any place where there is an open season for deer with guns unless the
12 gun is unloaded and encased.

13 (b) Paragraph (a) does not apply to any of the following:

14 1. Target shooting at established ranges.

15 2. Hunting on licensed game farms and shooting preserves.

16 3. Hunting waterfowl during the appropriate open season.

17 4. Sighting a gun by a person or a member of the person's immediate family, as defined
18 in s. 23.33 (1) (h), on land under the management and control of the person's immediate family,
19 as defined in s. 23.33 (1) (if).

20

(END)



D-Note

1999 BILL

sen
cat

1 AN ACT ...; relating to: restrictions on firearm possession during the 24-hour
2 period before the opening of deer hunting season.

Analysis by the Legislative Reference Bureau

Current department of natural resources rules generally prohibit a person, during the 24-hour period prior to the opening of the season for hunting deer with guns, from possessing a gun in a place where there is an open season for hunting deer with guns unless the gun is unloaded and enclosed within a carrying case. The rules also contain certain exceptions to this prohibition, including exceptions for persons engaged in target shooting and for persons who hunt on licensed game farms. This bill adds an additional exception to the general prohibition for a person who sights a firearm on land owned or leased by that person or a member of that person's immediate family.

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

3 SECTION 1. 29.312^X of the statutes is created to read:
4 **29.312 Possession of firearms before the opening of deer hunting**
5 **season. (1)** In this section, "immediate family" means persons who are related as
6 spouses, as siblings or as parent and child.

BILL

1 (2) (a) Except as provided in par. (b), no person may, during the period of 24
2 hours before the time of commencement of deer hunting season, possess a firearm
3 of the type used for hunting, as specified by the department by rule, in any place
4 where there is an open season for hunting deer with firearms, unless the firearm is
5 unloaded and enclosed within a carrying case.

6 (b) Paragraph (a) does not apply to any of the following:

7 1. A person who is engaged in target shooting at a target shooting range that
8 is open to the public.

9 2. A person who is hunting on a pheasant and quail farm that is licensed under
10 s. 29.865.

11 3. A person who is hunting on a game bird and animal farm that is licensed
12 under s. 29.867.

13 4. A person who is hunting on a fur animal farm that is licensed under s. 29.869.

14 5. A person who is hunting on a deer farm that is licensed under s. 29.871.

15 6. A person who is hunting waterfowl during the open season for hunting
16 waterfowl.

17 7. A person who is sighting a firearm on land owned or leased by that person,
18 or a member of that person's immediate family.

19 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2381/1dn

RNK.....

cmf

1. This draft prohibits the possession of certain firearms during the 24-period before the beginning of deer hunting season and creates certain exceptions to the prohibition. I did not include an exception for "shooting preserves" as instructed because that term is vague and is not used elsewhere in ch. 29. Instead, the draft exempts persons who hunt on the game farms specified in the draft. Is this O.K.?

2. The draft provides that the prohibition applies to persons who possess firearms of the type that are used for hunting, as specified by the department. This would ensure that persons who possess firearms that are not used for hunting would not be subject to the prohibition.

3. The draft, as instructed, creates an exception to the prohibition for persons who are engaged in target shooting at a target shooting range. The draft specifies that the target shooting range must be one that is open to the public to ensure that the target shooting occurs at a bona fide range. Is this O.K.?

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: Robin.Kite@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2381/1dn
RNK:cmh:km

March 18, 1999

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Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: Robin.Kite@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/18/99

To: Representative Petrowski

Relating to LRB drafting number: LRB-2381

Topic

Restrictions on gun possession before opening of deer hunting season

Subject(s)

Nat. Res. - fish and game

1. **JACKET** the draft for introduction _____

in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robin N. Kite, Legislative Attorney
Telephone: (608) 266-7291