

1999 DRAFTING REQUEST

Bill

Received: **01/15/99**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **DuWayne Johnsrud (608) 266-3534**

By/Representing:

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

Drafter: **rkite**

May Contact: **DNR**

Alt. Drafters:

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

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Possession of a firearm and night vision equipment

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 03/19/99	jpgeller 03/22/99	martykr 03/24/99	_____	lrb-docadmin 03/24/99		
/2	rkite 04/19/99	jpgeller 04/19/99	martykr 04/20/99	_____	lrb-docadmin 04/20/99	lrb-docadmin 07/6/99	

FE Sent For:

<END>

4/20/99 12:01:21 PM

Page 1

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/1	rkite 03/19/99	j geller 03/22/99	martykr 03/24/99	_____	lrb_docadmin 03/24/99		

12/4/99 jlg *Km 20*

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<END>

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1/?	rkite	1/22/99 JG	1/31/99 km/22	2/3/99 JF	2/3/99 km/24		

FE Sent For:

<END>



Night Vision Equipment

Johnson

Ugh
RNK

This proposal would make it a violation to have night-vision equipment and possess a firearm. It adds night vision equipment to the current shining wild animals statute.

2-24-99

Called Elizabeth Kluesner for more info. Told me to call Gary Horneth who is a conservation warden (6-3244) & explain that I am working on this proposal & that we need explanation of night vision equipment

2-25-99

Gary Horneth called - he is going to send me a definition re: night vision equip. Also wants to make sure it applies under 5.29.314(3) and (4) - i.e. both civil & criminal provisions

10/10/10

For your consideration to include in drafting the prohibition to use or possess night vision enhancement equipment. I have included a definition and created exemptions also. These are needed to allow sharp shooters shooting deer on deer damage permits primarily in cities. We do not want an exemption however to use artificial light by damage sharp shooters. I can explain this reasoning in more detail if you wish, just give me a call. Thank you for the opportunity for us to provide our input into this draft! Please call if you need anything, Gary R. Homuth, Policy Officer DNR 266-3244.

s. 29.3 14(1)(b) is created to read: “Night vision enhancement equipment” means devices using image intensifier technology that absorbs ambient light and converts it into intensified electronic images that emit light that one can see.

s. 29.314(3)(a) is amended to read: SHINING DEER OR BEAR WHILE HUNTING OR POSSESSING WEAPONS PROHIBITED. (a) Prohibition. No person may use or possess with intent to use any night vision enhancement equipment or a light for shining deer or bear while the person is hunting deer or bear or in possession of a firearm, bow and arrow or crossbow.

s. 29.3 14(3)(b)4. Is created to read: 4. For the use of night vision enhancement equipment with a permit issued under s.29.885 Wis. Stats.

s. 29.314(4)(a) is amended to read: SHINING WILD ANIMALS WHILE HUNTING OR POSSESSING WEAPONS PROHIBITED. (a). Prohibition. No person may use or possess with intent to use any night vision enhancement equipment or a light for shining wild animals while the person is hunting or in possession of a firearm, bow and arrow or crossbow.

s. 29.3 14(4)(b)4. is created to read: 4. For the use of night vision enhancement equipment with a permit issued under s.29.885 Wis. Stats.

s. 29.314(5)(a) is amended to read: SHINING WILD ANIMALS AFTER 10 P.M. DURING CERTAIN TIMES OF THE YEAR PROHIBITED. (a) Prohibition. No person may use or possess with intent to use any night vision enhancement equipment or a light for shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31.

s. 29.3 14(5)(b)4. is Created to read: 4. of night vision enhancement equipment with a permit issued under s.29.885 Wis. Stats.





D-Note

JG

1999 BILL

gen cat

that makes objects visible in the dark by using technology that converts ambient light into an electronic image.

1 **AN ACT ...; relating to:** using night vision equipment while hunting or possessing
2 a weapon.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no person may use, or possess with intent to use, a light for the purpose of shining wild animals while the person is hunting or in possession of a firearm, bow and arrow or crossbow. A person is shining an animal if the person is casting rays of light on an area for the purpose of illuminating, locating or attempting to illuminate or locate wild animals. Current law also prohibits a person from using or possessing with intent to use a light for shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31, regardless of whether they are hunting with a weapon.

This bill prohibits a person from using night vision equipment under the same conditions under which shining wild animals is prohibited. Under the bill, night vision equipment means a device, other than a light, ~~that uses image intensifier technology to make objects visible in the dark.~~ The bill provides that the prohibition against the use of night vision equipment does not apply to a person authorized by the department of natural resources to remove a wild animal that is causing damage or that is causing a nuisance.

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

BILL

1 **SECTION 1.** 29.314 (title) of the statutes is amended to read:

2 **29.314** (title) **Shining animals and using night vision equipment.**

History: 1919 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997 a. 1; 1997 a. 248 s. 438; Stats. 1997 s. 29.314; 1997 a. 249.

3 **SECTION 2.** 29.314 (1) (bm) of the statutes is created to read:

4 29.314 (1) (bm) "Night vision equipment" means a device, other than a light,
5 that makes objects visible in the dark by using technology that converts ambient
6 light into an electronic image.

7 **SECTION 3.** 29.314 (3) (title) of the statutes is amended to read:

8 **29.314 (3) (title) SHINING DEER OR BEAR OR USING NIGHT VISION EQUIPMENT WHILE**
9 **HUNTING OR POSSESSING WEAPONS PROHIBITED.**

History: 1979 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997 a. 1; 1997 a. 248 s. 438; Stats. 1997-s. 29.314; 1997 a. 249.

10 **SECTION 4.** 29.314 (3) (a) of the statutes is amended to read:

11 29.314 (3) (a) *Prohibition.* No person may use or possess with intent to use a
12 light for shining deer or bear or use or possess with intent to use night vision
13 equipment while the person is hunting deer or bear or in possession of a firearm, bow
14 and arrow or crossbow.

History: 1979 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997 a. 1; 1997 a. 248 s. 438; Stats. 1997 s. 29.314; 1997 a. 249.

15 **SECTION 6.** 29.314 (3) (b) 4. of the statutes is created to read:

16 29,314 (3) (b) 4. To a person who uses night vision equipment to assist the
17 person in the removal of a ~~wild animal~~ ^{deer or bear} as authorized by the department under s.
18 29.885 (2).

19 **SECTION 6.** 29.314 (4) (title) of the statutes is amended to read:

20 29.314 (4) (title) **SHINING WILD ANIMALS OR USING NIGHT VISION EQUIPMENT WHILE**
21 **HUNTING OR POSSESSING WEAPONS PROHIBITED.**

History: 1979 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997 a. 1; 1997 a. 248 s. 438; Stats. 1997-s. 29.314; 1997 a. 249.

22 **SECTION 7.** 29.314 (4) (a) of the statutes is amended to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2259/1dn

RNK...:.....

A
JLg

1. Please review the definition of "night vision equipment" carefully I developed this definition from a suggested definition supplied by Gary Homuth of DNR. Although I revised the definition somewhat to make it simpler to follow, I want to be sure that the definition is accurate.

2. Under current law, in s. [✓]29.314 (2), there is a presumption that a person casting the rays of light on a field, forest or other area which is frequented by wild animals is shining wild animals. Do you want to create a similar presumption for a person that uses night vision equipment in an area frequented by wild animals?

3. Under current law, in s. [✓]29.314 (5) (b) 4., there is an exception to the prohibition against shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31 that allows DNR to promulgate rules permitting a person to shine wild animals during this period. Do you want to allow DNR to promulgate rules that would also permit a person to use night vision equipment during this period?

4. Under current law, in s. 29.314 (6), [✓]a county may regulate or prohibit the shining of wild animals. Do you want this provision also to apply to persons who use night vision equipment?

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-2259/1dn
RNK:jlg:km

March 24, 1999

1. Please review the definition of "night vision equipment" carefully. I developed this definition from a suggested definition supplied by Gary Homuth of DNR. Although I revised the definition somewhat to make it simpler to follow, I want to be sure that the definition is accurate.

2. Under current law, in s. 29.314 (2), there is a presumption that a person casting the rays of light on a field, forest or other area which is frequented by wild animals is shining wild animals. Do you want to create a similar presumption for a person that uses night vision equipment in an area frequented by wild animals?

3. Under current law, in s. 29.314 (5) (b) 4., there is an exception to the prohibition against shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31 that allows DNR to promulgate rules permitting a person to shine wild animals during this period. Do you want to allow DNR to promulgate rules that would also permit a person to use night vision equipment during this period?

4. Under current law, in s. 29.314 (6), a county may regulate or prohibit the shining of wild animals. Do you want this provision also to apply to persons who use night vision equipment?

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: 3/24/99

To: Representative Johnsrud

Relating to LRB drafting number: LRB-2259

Topic

Possession of a firearm and night vision equipment

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 Scott Lormann _____

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. Rite, Legislative Attorney
Telephone: (608) 266-729 1

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2259/1dn
RNK:jlg:km

March 24, 1999

- ✓ 1. Please review the definition of "night vision equipment" carefully. I developed this definition from a suggested definition supplied by Gary Homuth of DNR. Although I revised the definition somewhat to make it simpler to follow, I want to be sure that the definition is accurate. *This looks good. Gary is probably our best source of info. here.*
- ✓ 2. Under current law, in s. 29.314 (2), there is a presumption that a person casting the rays of light on a field, forest or other area which is frequented by wild animals is shining wild animals. Do you want to create a similar presumption for a person that uses night vision equipment in an area frequented by wild animals? *yes*
3. Under current law, in s. 29.314 (5) (b) 4., there is an exception to the prohibition against shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31 that allows DNR to promulgate rules permitting a person to shine wild animals during this period. Do you want to allow DNR to promulgate rules that would also permit a person to use night vision equipment during this period? *yes*
- ✓ 4. Under current law, in s. 29.314 (6), a county may regulate or prohibit the shining of wild animals. Do you want this provision also to apply to persons who use night vision equipment? *yes.*

The goal with this is to regulate night vision equipment the same as shining.

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

*3. We want DNR to have the ability to ~~promulgate~~ allow night vision equipment.
→ If DNR does allow it, they should have to do it by rule (I don't want to allow it automatically by law)
→ We don't want to force them to write a rule either. I don't think they want to.*

D-Note

1999 BILL

Regen

1 **AN ACT to amend 29.314** (title), 29.314 (3) (title), 29.314 (3) (a), 29.314 (4) (title),
2 29.314 (4) (a), 29.314 (5) (title) and 29.314 (5) (a); and **to create** 29.314 (1) (bm),
3 29.314 (3) (b) 4., 29.314 (4) (b) 4. and 29.314 (5) (b) 3m. of the statutes; **relating**
4 **to:** using night vision equipment while hunting or possessing a weapon.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no person may use, or possess with intent to use, a light for the purpose of shining wild animals while the person is hunting or in possession of a firearm, bow and arrow or crossbow. A person is shining an animal if the person is casting rays of light on an area for the purpose of illuminating, locating or attempting to illuminate or locate wild animals. Current law also prohibits a person from using or possessing with intent to use a light for shining wild animals between 10 p.m. and 7 a.m. from September 15 to December 31, regardless of whether they are hunting with a weapon,

This bill prohibits a person from using night vision equipment under the same conditions under which shining wild animals is prohibited. Under the bill, night vision equipment means a device, other than a light, that makes objects visible in the dark by using technology that converts ambient light into an electronic image. The bill provides that the prohibition against the use of night vision equipment does not

BILL

apply to a person authorized by the department of natural resources to remove a wild animal that is causing damage or that is causing a nuisance.

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

1 SECTION 1. 29.314 (title) of the statutes is amended to read:

2 **29.314 (title) Shining animals and using night vision equipment.**

3 SECTION 2. 29.314 (1) (bm) of the statutes is created to read:

4 29.314 (1) (bm) "Night vision equipment" means a device, other than a light,
5 that makes objects visible in the dark by using technology that converts ambient
6 light into an electronic image.

Insert
1-6

7 SECTION 3. 29.314 (3) (title) of the statutes is amended to read:

8 **29.314 (3) (title) SHININGDEERORBEAR OR USING NIGHT VISION EQUIPMENT WHILE**
9 **HUNTING OR POSSESSING WEAPONS PROHIBITED.**

for attempt
to locate
to locate wild animals

10 SECTION 4. 29.314 (3) (a) of the statutes is amended to read:

11 **29.314 (3) (a) *Prohibition.* No person may use or possess with intent to use a**
12 **light for shining deer or bear or use or possess with intent to use night vision**
13 **equipment while the person is hunting deer or bear or in possession of a firearm, bow**
14 **and arrow or crossbow.**

15 SECTION 5. 29.314 (3) (b) 4. of the statutes is created to read:

16 29.314 (3) (b) 4. To a person who uses night vision equipment to assist the
17 person in the removal of a deer or bear as authorized by the department under s.
18 29.885 (2).

19 SECTION 6. 29.314 (4) (title) of the statutes is amended to read:

20 **29.314 (4) (title) SHININGWILDANIMALS OR USING NIGHT VISION EQUIPMENT WHILE**
21 **HUNTING OR POSSESSING WEAPONS PROHIBITED.**

BILL

*or attempt
to locate*

to locate wild animals

1 SECTION 7. 29.314 (4) (a) of the statutes is amended to read:

2 29.314 (4) (a) *Prohibition.* No person may use or possess with intent to use a
3 light for shining wild animals or use or possess with intent to use night vision
4 equipment while the person is hunting or in possession of a firearm, bow and arrow
5 or crossbow.

6 SECTION 8. 29.314 (4) (b) 4. of the statutes is created to read:

7 29.314 (4) (b) 4. To a person who uses night vision equipment to assist the
8 person in the removal of a wild animal as authorized by the department under s.
9 29.885 (2).

10 SECTION 9. 29.314 (5) (title) of the statutes is amended to read:

11 29.314 (5) (title) SHINING WILD ANIMALS OR USING NIGHT VISION EQUIPMENT AFTER
12 10 P.M. DURING CERTAIN TIMES OF THE YEAR PROHIBITED.

or attempt to locate

13 SECTION 10. 29.314 (5) (a) of the statutes is amended to read:

14 29.314 (5) (a) *Prohibition.* No person may use or possess with intent to use a
15 light for shining wild animals or use or possess with intent to use night vision ^{equipment} ~~while~~
16 hunting ^{*to locate*} wild animals, between 10 p.m. and 7 a.m. from September 15 to December
17 31.

18 SECTION 11. 29.314 (5) (b) 3m. of the statutes is created to read:

19 29.314 (5) (b) 3m. To a person who uses night vision equipment to assist the
20 person in the removal of a wild animal as authorized by the department under s.
21 29.885 (2).

(END)

✓
Insert
2-21
→

Insert 1-6

^x
SECTION 1. 29.314 (2) (title) of the statutes is amended to read:

29.314 (2) (title) ~~PRESUMPTION~~[✓]**PRESUMPTIONS.**

History: 1979 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997^x 1; 1997 a. 248 s. 438; Stats. 1991 s. 29.314; 1997 a. 249.

SECTION 2. 29.314 (2) of the statutes is renumbered 29.314 (2) (a).

^x
SECTION 3. 29.314 (2) (a) (title) of the statutes is created to read:

29.314 [✓](2) ^(title) ~~1~~[✓] *Shining.*

^x
SECTION 4. 29.314 (2) (b) of the statutes is created to read:

29.314 (2) (b) **Using night vision equipment.**[✓] A person possessing night vision equipment while in a field, forest or other area ^{that} ~~which~~ is frequented by wild animals is presumed to be using or possessing with intent to use the night vision equipment to locate ^{, or attempt to locate,} wild animals. A person may introduce evidence to rebut this presumption.

Insert 2-21

^x
SECTION 5. 29.314 (5) (b) 4. of the statutes is amended to read:

29.314 (5) (b) 4. If rules promulgated by the department specifically permit a person to use or possess a light for shining wild animals or use or possess [✓] night vision equipment ^{to locate, or attempt to locate, wild animals} during these times.

History: 1979 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997^x 1; 1997 a. 248 s. 438; Stats. 1997 s. 29.314; 1997 a. 249.

SECTION 6. 29.314 (6) of the statutes is amended to read:

29.314 (6) COUNTY ORDINANCE. A county may regulate or prohibit the use of or possession with intent to use a light for shining wild animals or night vision equipment ^{to locate, or attempt to locate,} wild animals. A county ordinance may not be less restrictive than the prohibition under sub. (5) (a). The exceptions under sub. (5) (b) apply to a county ordinance adopted under this subsection. A county may provide for a

[✓] the use of or possession with intent to use

forfeiture of not more than \$1,000 for violation of a county ordinance adopted under this subsection.

History: 1979 c. 190; 1983 a. 27, 419, 538; 1987 a. 399; 1997 a 1; 1997 a. 248 s. 438; Stats. 1997 s. 29.314; 1997 a. 249.

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

LRB-2259/2dn

RNK...:
A

JG

to
Please review this draft carefully. In addition to making the changes that you requested in response to my earlier drafter's note, I made some changes in the draft to make clear that the prohibition on the use of night vision equipment relates ~~to~~ only those circumstances where the equipment is being used to locate, or attempt to locate, wild animals. This is consistent with current law as it concerns shining because shining is defined to mean the casting of rays of light for the purpose of illuminating, locating or attempting to illuminate or locate wild animals. If you have any questions concerning this draft, please feel free to contact me.

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

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

LRB-2259/2dn
RNK:jl:km

April 20, 1999

Please review this draft carefully. In addition to making the changes that you requested in response to my earlier drafter's note, I made some changes in the draft to make clear that the prohibition on the use of night vision equipment relates only to those circumstances where the equipment is being used to locate, or attempt to locate, wild animals. This is consistent with current law as it concerns shining because shining is defined to mean the casting of rays of light for the purpose of illuminating, locating or attempting to illuminate or locate wild animals. If you have any questions concerning this, draft, please feel free to contact me.

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

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**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: 4/20/99

To: Representative Johnsrud

Relating to LRB drafting number: LRB-2259

Topic

Possession of a firearm and night vision equipment

Subject(s)

Nat. Res. - fish and game

1. **JACKET** the draft for introduction D. Wayne
in the **Senate** or the **Assembly** S (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) 266-729 1

LRB-2259/2

RNK

CCC to AB 661

#. Page 2, line 17: after "presumption"

insert a period.

cjs



State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS **IN:**
1999 ASSEMBLY BILL 661

Prepared by the Legislative Reference Bureau
(March 14, 2000)

- 1 . Page 2, line 17: after "presumption" insert a period.