

2001 DRAFTING REQUEST

Bill

Received: **02/16/2001**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **Kathy Marschman**

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

Drafter: **rkite**

May Contact:

Addl. Drafters:

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

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Exceptions to prohibitions on sighting firearms

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 03/09/2001	gilfokm 03/12/2001	jfrantze 03/13/2001	_____	lrb_docadmin 03/13/2001	lrb_docadmin 03/15/2001	

FE Sent For:

none needed

<END>

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1?	rkite	1-3/12-01 King	7/3/13	Self 3/13			

FE Sent For:

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**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

TO: REPRESENTATIVE JERRY PETROWSKI
FROM: Mark C. Patronsky, Senior Staff Attorney *MCP*
RE: Bill Draft Relating to the Sighting of Firearms
DATE: February 14, 2001

This memorandum and the attached bill draft are in response to your request for a bill draft to authorize the sighting of firearms under certain circumstances on the day prior to the opening of deer hunting season.

In the 1999 Legislative Session, you introduced Assembly Bill 304, which relates to the same subject. The bill was reported favorably by the Assembly Natural Resources Committee but was not taken up on the floor. Both 1999 Assembly Bill 304 and the attached bill draft (WLC: 0081/3) relate to a current administrative rule of the Department of Natural Resources (DNR). The text of this rule is as follows:

NR 10.09 Guns, ammunition and other devices.

...

(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.

Your concern with this rule is that it prevents an individual from sighting a firearm on the day prior to deer gun season, even on property owned or leased by the person who wishes to sight the firearm, or a member of that person's immediate family. At the public hearing on Assembly Bill 304,

law enforcement staff from the DNR expressed support for the current rule on the grounds that it helps to prevent violations related to the deer hunting season.

There is no specific statutory provision related to the possession of a firearm in the 24-hour period prior to deer gun season. The current administrative rule is established under general DNR authority in ch. 29, Stats., to regulate hunting.

The approach taken in drafting 1999 Assembly Bill 304 was to recreate the rule in statutory language and to add an additional exception to those already provided in the rule. This is not an uncommon drafting practice. However, there are two disadvantages to the approach taken to drafting Assembly Bill 304. First, the bill does not precisely replicate the language of the rule, and therefore raises questions as to whether other changes to the current rule are made by the bill, besides the one you intend. Second, the bill requires the Legislature to approve the entire rule when your only concern is with the specific exception for sighting a firearm on land owned or leased by a person or a member of that person's immediate family.

To address these concerns about 1999 Assembly Bill 304, the attached bill draft takes a simpler approach. This draft prohibits the DNR from promulgating or enforcing a rule that would prevent a person from sighting a firearm on land owned or leased by that person or a member of that person's immediate family during the 24-hour period prior to the opening date for hunting deer with firearms in any area where there is an open season for deer with firearms. The bill draft, in effect, creates a statutory exemption to s. NR 10.09 (2).

If I can provide further information on this subject, please feel free to contact me.

MCP:ksm;tlu

Attachment

1 **AN ACT** to create 29.304 of the statutes; relating to: the possession of a firearm for
2 the purpose of sighting the firearm.

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

3 **SECTION 1.** 29.304 of the statutes is created to read:

4 **29.304 Rule regarding possession of a firearm.** (1) In this section, "immediate
5 family" means persons who are related as spouses, as siblings, or as parent and child.

6 (2) The department may not promulgate or enforce a rule that prevents a person from
7 sighting a firearm on land owned or leased by that person or a member of that person's
8 immediate family during the 24-hour period prior to the opening date for hunting deer with
9 firearms in any area where there is an open season for deer with firearms.

10

(END)



2001 BILL

1 AN ACT ^{Sen. Cat.} relating to: restrictions on promulgating or enforcing certain rules
2 regulating the sighting of a firearm.

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 prohibits ~~the department of natural resources~~ from promulgating or enforcing a rule that prohibits a person from sighting a firearm on land owned or leased by that person or a member of that person's immediate family during that same 24-hour period in any area where there is an open season for hunting deer with firearms.

(DNR)

DNR

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

3 SECTION 1. 29.312 of the statutes is created to read:
4 **29.312 Rules regulating the sighting of a firearm.** (1) In this section,
5 "immediate family" means persons who are related as spouses, as siblings, or as
6 parent and child.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266 3561
LEGAL FAX: (608) 264-6948

March 13, 2001

MEMORANDUM

To: Representative Petrowski

From: Robin N. Kite, Legislative Attorney

Re: LRB-2551 Exceptions to prohibitions on sighting firearms

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7291 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.