



State of Wisconsin
2003 - 2004 LEGISLATURE

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ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 444

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1 AN ACT *to renumber and amend* 29.091, 29.621 (4), 941.23, 941.235 (2) and
2 943.13 (2); *to amend* 23.33 (3) (e), 29.089 (2), 51.20 (13) (cv) 4., 51.20 (16) (gm),
3 51.30 (3) (a), 165.82 (1) (intro.), 165.82 (2), 175.35 (1) (at), 175.35 (2) (d), 175.35
4 (2g) (c) 4. a. and b., 175.35 (2k) (ar) 2., 440.26 (3m), 813.12 (6) (am) 1., 813.12
5 (6) (am) 2., 813.122 (9) (am) 1., 813.122 (9) (am) 2., 813.125 (5r) (a), 813.125 (5r)
6 (b), 885.235 (1g) (intro.), 938.396 (8), 941.20 (1) (a), 941.20 (1) (b), 941.295 (2)
7 (d), 943.13 (1m) (b) and 943.13 (3); and *to create* 29.091 (2), 29.621 (4) (b), 55.06
8 (17) (d), 59.25 (3) (u), 165.25 (11), 167.31 (4) (ar), 175.35 (1) (am), 175.50,
9 885.235 (1g) (e), 938.396 (8m), 941.20 (1) (bm), 941.23 (1) (a), 941.23 (1) (b),
10 941.23 (1) (c), 941.23 (2), 941.235 (2) (c), 941.237 (3) (ct), 941.295 (2g), 941.295
11 (2r), 943.13 (1e) (bm), 943.13 (1e) (g), 943.13 (1m) (c), 943.13 (2) (bm), 946.32 (3),
12 948.605 (2) (c) and 948.61 (3m) of the statutes; **relating to:** carrying or going
13 armed with a concealed weapon, background checks for handgun purchases,

MS ANNOTATIONS ✓

1 requiring the exercise of rule-making authority, providing an exemption from
2 rule-making authority, and providing penalties.

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

3 **SECTION 1.** 23.33 (3) (e) of the statutes is amended to read:

4 23.33 (3) (e) With any firearm in his or her possession unless it is unloaded and
5 enclosed in a carrying case, or. This paragraph does not apply to the possession of
6 a handgun, as defined in s. 175.50 (1) (bm), by a person who holds a valid license to
7 carry a concealed weapon issued under s. 175.50 or by an out-of-state licensee, as
8 defined in s. 175.50 (1) (g).

9 (em) With any bow unless it is unstrung or enclosed in a carrying case.

10 **SECTION 2.** 29.089 (2) of the statutes is amended to read:

11 29.089 (2) Except as provided in sub. (3), no person may have in his or her
12 possession or under his or her control a firearm on land located in state parks or state
13 fish hatcheries unless the firearm is unloaded and enclosed within a carrying case.
14 This subsection does not apply if the firearm is a handgun, as defined in s. 175.50 (1)
15 (bm), and the person holds a valid license to carry a concealed weapon issued under
16 s. 175.50 or an out-of-state licensee, as defined in s. 175.50 (1) (g).

17 **SECTION 3.** 29.091 of the statutes is renumbered 29.091 (1) and amended to
18 read:

19 29.091 (1) No person may hunt or trap within any wildlife refuge established
20 under s. 23.09 (2) (b) or 29.621 (1), or, except as provided in sub. (2), have possession
21 or control of any gun, firearm, bow or crossbow unless the gun or firearm is unloaded,
22 the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed
23 within a carrying case. The taking of predatory game birds and animals shall be done

1 as the department directs. All state wildlife refuge boundary lines shall be marked
2 by posts placed at intervals of not over 500 feet and bearing signs with the words
3 “Wisconsin Wildlife Refuge”.

4 **SECTION 4.** 29.091 (2) of the statutes is created to read:

5 29.091 (2) The prohibition of the possession or control of a loaded or unencased
6 gun or firearm in sub. (1) does not apply to the possession of a handgun, as defined
7 in s. 175.50 (1) (bm), by a person who holds a valid license to carry a concealed weapon
8 issued under s. 175.50 or by an out-of-state licensee, as defined in s. 175.50 (1) (g).

9 **SECTION 5.** 29.621 (4) of the statutes is renumbered 29.621 (4) (a) and amended
10 to read:

11 29.621 (4) (a) Except as provided in s. 29.091 (1), no owner of a wildlife refuge,
12 and no other person, may hunt or trap within the boundaries of any wildlife refuge
13 or, except as provided in par. (b), have in his or her possession or under his or her
14 control in the wildlife refuge a gun, firearm, bow or crossbow, unless the gun or
15 firearm is unloaded, the bow or crossbow is unstrung and the gun, firearm, bow or
16 crossbow is enclosed within a carrying case. Nothing in this section may prohibit,
17 prevent or interfere with the department in the destruction of injurious animals.

18 **SECTION 6.** 29.621 (4) (b) of the statutes is created to read:

19 29.621 (4) (b) The prohibition of the possession or control of a loaded or
20 unencased gun or firearm in par. (a) does not apply to the possession of a handgun,
21 as defined in s. 175.50 (1) (bm), by a person who holds a valid license to carry a
22 concealed weapon issued under s. 175.50 or an out-of-state licensee, as defined in
23 s. 175.50 (1) (g).

24 **SECTION 7.** 51.20 (13) (cv) 4. of the statutes is amended to read:

1 51.20 (13) (cv) 4. If the court prohibits a subject individual from possessing a
2 firearm under subd. 1. or cancels a prohibition under subd. 2., the court clerk shall
3 notify the department of justice of that fact and provide any information identifying
4 the subject individual that is necessary to permit an accurate involuntary
5 commitment history record search under s. 175.35 (2g) (c) or a background check
6 under s. 175.50 (9g) (b). No other information from the subject individual's court
7 records may be disclosed to the department of justice except by order of the court.
8 The department of justice may disclose information provided under this subdivision
9 only as part of an involuntary commitment history record search under s. 175.35 (2g)
10 (c) or a background check under s. 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g)
11 (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

12 **SECTION 8.** 51.20 (16) (gm) of the statutes is amended to read:

13 51.20 (16) (gm) Upon a request under par. (a), a court may cancel the
14 prohibition under sub. (13) (cv) 1. if the court determines, based on evidence
15 presented on the issue of the subject individual's dangerousness, that there no longer
16 is a substantial probability that the individual may use a firearm to cause physical
17 harm to himself or herself or endanger public safety. If a court cancels a prohibition
18 under sub. (13) (cv) 1. under this paragraph, the court clerk shall notify the
19 department of justice of that fact and provide any information identifying the subject
20 individual that is necessary to permit an accurate involuntary commitment record
21 search under s. 175.35 (2g) (c) or a background check under s. 175.50 (9g) (b). No
22 other information from the subject individual's court records may be disclosed to the
23 department of justice except by order of the court.

24 **SECTION 9.** 51.30 (3) (a) of the statutes is amended to read:

1 51.30 (3) (a) Except as provided in pars. (b) and (c) and s. 175.50 (11) (d) 2. g.
2 and 3. and under rules that the department of justice promulgates under s. 175.35
3 (2g) (c) 3. or 175.50 (9g) (f), the files and records of the court proceedings under this
4 chapter shall be closed but shall be accessible to any individual who is the subject of
5 a petition filed under this chapter.

6 **SECTION 10.** 55.06 (17) (d) of the statutes is created to read:

7 55.06 (17) (d) Notwithstanding par. (a), information from records described in
8 par. (a) may be disclosed under rules that the department of justice promulgates
9 under s. 175.35 (2g) (c) 3. or 175.50 (9g) (f).

10 **SECTION 11.** 59.25 (3) (u) of the statutes is created to read:

11 59.25 (3) (u) 1. Subject to the terms of an agreement under s. 175.50 (2) (c),
12 deposit all moneys received under s. 175.50 (7) (bd) and (bp), (13), and (15) (b) 4. a.
13 and c. in the general fund of the county.

14 2. Forward all moneys received under s. 175.50 (7) (bh) and (15) (b) 4. b. to the
15 state treasurer for deposit in the general fund.

16 4. Subject to the terms of an agreement under s. 175.50 (2) (c), deposit all
17 moneys received from payments made under s. 175.50 (7) (bt) and (15) (b) 4. d. in the
18 law enforcement excellence fund established under s. 175.50 (20) and make
19 payments from the fund for the purposes of s. 175.50 (20) (b).

20 **SECTION 12.** 165.25 (11) of the statutes is created to read:

21 165.25 (11) **RULES REGARDING CONCEALED WEAPONS LICENSES.** (a) Promulgate
22 rules specifying all of the following:

23 1. A procedure by which a sheriff may file a petition under s. 175.50 (10m) and
24 a license may be revoked under s. 175.50 (14) with respect to a person who is issued

1 a license under s. 175.50 (9r) and who, as a result of being licensed, poses a
2 substantial risk to others.

3 2. A procedure to provide sheriffs notice of any order entered under s. 175.50
4 (10m) prohibiting a person from being licensed to carry a concealed weapon.

5 (b) Determine which states issue permits or licenses to carry a concealed
6 weapon to persons who meet training requirements and pass criminal background
7 checks in those states and promulgate by rule a list of those states.

8 **SECTION 13.** 165.82 (1) (intro.) of the statutes, as affected by 2003 Wisconsin
9 Act 33, is amended to read:

10 165.82 (1) (intro.) Notwithstanding s. 19.35 (3), the department of justice shall
11 impose the following fees, plus any surcharge required under sub. (1m), for criminal
12 history searches for purposes unrelated to criminal justice or to s. 175.35 or 175.50:

13 **SECTION 14.** 165.82 (2) of the statutes is amended to read:

14 165.82 (2) Except as provided in ~~s.~~ ss. 175.35 and 175.50, the department of
15 justice shall not impose fees for criminal history searches for purposes related to
16 criminal justice.

17 **SECTION 15.** 167.31 (4) (ar) of the statutes is created to read:

18 167.31 (4) (ar) Subsections (2) (a), (b), and (c) and (3) (a) and (b) do not apply
19 to the placement, possession, transportation, or loading of a handgun, as defined in
20 s. 175.50 (1) (bm), by a person who holds a valid license to carry a concealed weapon
21 issued under s. 175.50 or an out-of-state licensee, as defined in s. 175.50 (1) (g).

22 **SECTION 16.** 175.35 (1) (am) of the statutes is created to read:

23 175.35 (1) (am) “Disqualifying mental health adjudication” means one of the
24 following events if it occurs in a proceeding that was not commenced by the person
25 who is the subject of the proceeding and if it is based on the person having markedly

1 subnormal intelligence or the person's mental illness, incompetency, condition, or
2 disease:

3 1. An order entered by a court in this state that commits a person for treatment
4 in an inpatient mental health facility.

5 2. A determination by a court in this state that a person is a danger to himself
6 or herself or others under s. 51.20 (1) (a) 2. or lacks the mental capacity to contract
7 or manage his or her own affairs.

8 **SECTION 17.** 175.35 (1) (at) of the statutes is amended to read:

9 175.35 (1) (at) "Firearms restrictions record search" means a search of
10 department of justice records to determine whether a person seeking to purchase a
11 handgun is prohibited from possessing a firearm under s. 941.29 or based on a
12 disqualifying mental health adjudication. "Firearms restriction record search"
13 includes a criminal history record search, a search to determine whether a person is
14 prohibited from possessing a firearm under s. 51.20 (13) (cv), a search to determine
15 whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal
16 injunction, as defined in s. 813.12 (1) (e), issued by a court established by any
17 federally recognized Wisconsin Indian tribe or band, except the Menominee Indian
18 tribe of Wisconsin, that includes notice to the respondent that he or she is subject to
19 the requirements and penalties under s. 941.29 and that has been filed with the
20 circuit court under s. 806.247 (3), and a search to determine whether the person is
21 prohibited from possessing a firearm under s. 813.125 (4m).

22 **SECTION 18.** 175.35 (2) (d) of the statutes is amended to read:

23 175.35 (2) (d) Forty-eight hours, subject to extension under sub. (2g) (c) 4. c.,
24 have elapsed from the time that the firearms dealer has received a confirmation
25 number regarding the firearms restrictions record search under sub. (2g) (c) from the

1 department of justice and the firearms dealer has not been notified that the transfer
2 would be in violation of s. 941.29 or that the transferee would be prohibited from
3 possessing a firearm based on a disqualifying mental health adjudication.

4 **SECTION 19.** 175.35 (2g) (c) 4. a. and b. of the statutes are amended to read:

5 175.35 (2g) (c) 4. a. If the search indicates that the transferee is prohibited from
6 possessing a firearm under s. 941.29 or based on a disqualifying mental health
7 adjudication, the department shall provide the firearms dealer with a unique
8 nonapproval number. The department may not disclose to the firearms dealer the
9 reason the transferee is prohibited from possessing a firearm under s. 941.29.

10 b. If the search indicates that the transferee is not prohibited from possessing
11 a firearm under s. 941.29 or based on a disqualifying mental health adjudication, the
12 department shall provide the firearms dealer with a unique approval number.

13 **SECTION 20.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

14 175.35 (2k) (ar) 2. Check each duplicate notification form received under sub.
15 (2j) against the information recorded by the department regarding the corresponding
16 request for a firearms restrictions record search under sub. (2g). If the department
17 previously provided a unique approval number regarding the request and nothing
18 in the duplicate completed notification form indicates that the transferee is
19 prohibited from possessing a firearm under s. 941.29 or based on a disqualifying
20 mental health adjudication, the department shall destroy all records regarding that
21 firearms restrictions record search within 30 days after receiving the duplicate form.

22 **SECTION 21.** 175.50 of the statutes is created to read:

23 **175.50 License to carry a concealed weapon. (1) DEFINITIONS.** In this
24 section:

25 (ab) "Alcohol beverages" has the meaning given in s. 125.02 (1).

1 (abm) “Alcohol concentration” has the meaning given in s. 340.01 (1v).

2 (ac) “Background check” means a search of department and court records
3 conducted under sub. (9g) to determine a person’s eligibility for a license to carry a
4 concealed weapon.

5 (ag) Except in subs. (2g) (b) and (11) (c) 1. b., “carry” means to go armed with.

6 (ah) “Controlled substance” means a controlled substance, as defined in s.
7 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).

8 (aj) “Department” means the department of justice.

9 (am) “Drunk driving offense” means any of the following:

- 10 1. A violation of s. 346.63 or a local ordinance in conformity with that section.
- 11 2. A violation of a law of a federally recognized American Indian tribe or band
12 in this state in conformity with s. 346.63.
- 13 3. A violation of the law of another jurisdiction, as defined in s. 340.01 (41m),
14 that prohibits use of a motor vehicle while intoxicated, while under the influence of
15 a controlled substance, a controlled substance analog, or a combination thereof, with
16 an excess or specified range of alcohol concentration, or while under the influence of
17 any drug to a degree that renders the person incapable of safely driving, as those or
18 substantially similar terms are used in that jurisdiction’s laws.

19 (bm) “Handgun” means any weapon designed or redesigned, or made or
20 remade, and intended to be fired while held in one hand and to use the energy of an
21 explosive to expel a projectile through a smooth or rifled bore. “Handgun” does not
22 include a machine gun, as defined in s. 941.27 (1), a short-barreled rifle, as defined
23 in s. 941.28 (1) (b), or a short-barreled shotgun, as defined in s. 941.28 (1) (c).

24 (bq) “Intoxicant” means any alcohol beverage, controlled substance, or other
25 drug, or any combination thereof.

1 (c) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

2 (d) "Licensee" means an individual holding a valid license to carry a concealed
3 weapon issued under this section.

4 (e) "Misdemeanor crime of violence" means any of the following:

5 1. A misdemeanor violation of chs. 940, 941, or 948 or of s. 947.013 or a violation
6 of s. 947.01.

7 2. A crime under federal law or the law of another state that is comparable to
8 a crime described in subd. 1.

9 (eg) "Misdemeanor delinquency adjudication" means a finding that a juvenile
10 is delinquent for an act that would be a misdemeanor if committed by an adult.

11 (f) "Out-of-state authorization" means a valid permit document or a valid
12 license document issued by another state if all of the following apply:

13 1. The permit document or license document documents that a person is
14 authorized under the law of that state to carry a concealed weapon in that state.

15 2. The state is listed in the rule promulgated by the department of justice under
16 s. 165.25 (11) (b)

17 (g) "Out-of-state licensee" means an individual who is 21 years of age or over,
18 who is not a Wisconsin resident, who has been issued an out-of-state authorization,
19 and who is not prohibited from possessing a firearm under s. 941.29 or from
20 possessing a firearm that has been transported in interstate or foreign commerce
21 under federal law.

22 (h) "Private property" has the meaning given in s. 943.13 (1e) (e).

23 (i) "Proprietor" means a person to whom a Class "B" or "Class B" license or
24 permit has been issued under ch. 125.

1 (ig) “Purpose of authorized analysis” means for the purpose of determining or
2 obtaining evidence of the presence, quantity, or concentration of any intoxicant in a
3 person’s blood, breath, or urine.

4 (is) “Test facility” means a test facility or agency prepared to administer tests
5 under s. 343.305 (2).

6 (j) “Weapon” means a handgun, an electric weapon, as defined in s. 941.295 (4),
7 a tear gas gun, a knife other than a switchblade knife under s. 941.24, or a billy club.

8 **(2) ISSUANCE OF LICENSE.** (a) Except as provided in pars. (b) 1. and (c), each
9 county, through its sheriff, shall issue licenses to carry a concealed weapon to an
10 individual who meets the qualifications specified in sub. (3) and who completes the
11 application process specified in sub. (7). A license to carry a concealed weapon issued
12 under this section shall meet the requirements specified in sub. (2m).

13 (b) 1. A sheriff may, but is not required to, issue licenses to carry a concealed
14 weapon under this section if, before the first day of the 4th month beginning after the
15 effective date of this subdivision [revisor inserts date], all of the following occur:

16 a. The sheriff requests the county board of the sheriff’s county to authorize him
17 or her to decline to issue licenses to carry a concealed weapon under this section.

18 b. After receiving a request from the sheriff under subd. 1. a., the county board
19 of the sheriff’s county grants the sheriff’s request by a two-thirds vote of all the
20 members of the board.

21 2. At any time the county board of the sheriff’s county may rescind the
22 authorization it grants under subd. 1. by a two-thirds vote of all members of the
23 county board.

24 (c) Any 2 or more sheriffs may by agreement jointly exercise powers granted
25 to them and discharge duties imposed on them under this section. An agreement for

1 joint issuance of licenses to carry a concealed weapon under this section may be
2 entered into at any time and shall satisfy all of the following criteria:

3 1. The agreement shall be in writing.

4 2. The agreement shall be approved by the county board of the county of each
5 sheriff who is a party to the agreement.

6 2m. The agreement shall specify how the powers and duties that are the subject
7 of the agreement are to be allocated among the sheriffs that are parties to the
8 agreement.

9 3. The agreement shall specify how costs incurred and moneys received under
10 this section shall be apportioned among the sheriffs who are a party to the agreement
11 and their respective counties.

12 4. The agreement shall designate one county to be identified as the county of
13 issuance.

14 5. If a sheriff who is party to an agreement has issued licenses under this
15 section before entering into the agreement, the agreement shall provide for the
16 renewal of any licenses that were issued by that sheriff before he or she entered into
17 the agreement.

18 **(2g) CARRYING A CONCEALED WEAPON; CARRYING AND DISPLAY OF LICENSE DOCUMENT**
19 **OR AUTHORIZATION.** (a) A licensee or an out-of-state licensee may carry a concealed
20 weapon anywhere in this state except as provided under sub. (15m) or (16) or s.
21 941.20 (1) (b) or 943.13 (1m) (c). This paragraph does not limit the right that a person
22 may have under s. 943.13 (1m) (c) to prohibit a licensee or an out-of-state licensee
23 from entering or remaining in a building used by a health care facility, as defined in
24 s. 150.84 (2), or a clinic or office that is used by a physician licensed under ch. 448

1 if the licensee or out-of-state licensee is carrying a concealed weapon. In this
2 paragraph, “building” includes a part of a building.

3 (b) A licensee shall carry his or her license document and an out-of-state
4 licensee shall carry his or her out-of-state authorization at all times during which
5 he or she is going armed with a concealed weapon.

6 (c) If he or she is carrying a concealed weapon, a licensee shall display his or
7 her license document and an out-of-state licensee shall display his or her
8 out-of-state authorization to a law enforcement officer upon the request of the law
9 enforcement officer.

10 **(2i) PRELIMINARY BREATH SCREENING TEST.** (a) *Requirement.* A person shall
11 provide a sample of his or her breath for a preliminary breath screening test if a law
12 enforcement officer has probable cause to believe that the person is violating sub.
13 (16) (cm) 1. and if, prior to an arrest, the law enforcement officer requested that the
14 person provide this sample.

15 (b) *Use of test results.* A law enforcement officer may use the results of a
16 preliminary breath screening test for the purpose of deciding whether or not to arrest
17 a person for a violation of sub. (16) (cm) 1. or for the purpose of deciding whether or
18 not to request a chemical test under sub. (2k). Following the preliminary breath
19 screening test, chemical tests may be required of the person under sub. (2k).

20 (c) *Admissibility.* The result of a preliminary breath screening test is not
21 admissible in any action or proceeding except to show probable cause for an arrest,
22 if the arrest is challenged, or to show that a chemical test was properly required of
23 a person under sub. (2k).

24 (d) *Refusal.* There is no penalty for a violation of par. (a). Neither sub. (17) (b)
25 nor the general penalty provision under s. 939.61 applies to that violation.

1 **(2j) IMPLIED CONSENT.** Any person who carries a concealed weapon in this state
2 is deemed to have given consent to provide one or more samples of his or her breath,
3 blood, or urine for the purpose of authorized analysis as required under sub. (2k).
4 Any person who carries a concealed weapon in this state is deemed to have given
5 consent to submit to one or more chemical tests of his or her breath, blood, or urine
6 for the purpose of authorized analysis as required under sub. (2k).

7 **(2k) CHEMICAL TESTS.** (a) *Requirement.* 1. ‘Samples; submission to tests.’ A
8 person shall provide one or more samples of his or her breath, blood, or urine for the
9 purpose of authorized analysis if he or she is arrested for a violation of sub. (16) (cm)
10 1. and if he or she is requested to provide the sample by a law enforcement officer.
11 A person shall submit to one or more chemical tests of his or her breath, blood, or
12 urine for the purpose of authorized analysis if he or she is arrested for a violation of
13 sub. (16) (cm) 1. and if he or she is requested to submit to the test by a law
14 enforcement officer.

15 2. ‘Information.’ A law enforcement officer requesting a person to provide a
16 sample or to submit to a chemical test under subd. 1. shall inform the person of all
17 of the following at the time of the request and prior to obtaining the sample or
18 administering the test:

- 19 a. That he or she is deemed to have consented to tests under sub. (2i).
20 b. That a refusal to provide a sample or to submit to a chemical test constitutes
21 a violation under par. (e) and is subject to the same penalties and procedures as a
22 violation of sub. (16) (cm) 1.
23 c. That in addition to the designated chemical test under par. (b) 2. he or she
24 may have an additional chemical test under par. (c) 1.

1 3. ‘Unconscious person.’ A person who is unconscious or otherwise not capable
2 of withdrawing consent is presumed not to have withdrawn consent under this
3 paragraph, and if a law enforcement officer has probable cause to believe that the
4 person violated sub. (16) (cm) 1., one or more chemical tests may be administered to
5 the person without a request under subd. 1. and without providing information
6 under subd. 2.

7 (b) *Chemical tests.* 1. ‘Test facility.’ Upon the request of a law enforcement
8 officer, a test facility shall administer a chemical test of breath, blood, or urine for
9 the purpose of authorized analysis. A test facility shall be prepared to administer
10 2 of the 3 chemical tests of breath, blood, or urine for the purpose of authorized
11 analysis. The department may enter into agreements for the cooperative use of test
12 facilities.

13 2. ‘Designated chemical test.’ A test facility shall designate one chemical test
14 of breath, blood, or urine which it is prepared to administer first for the purpose of
15 authorized analysis.

16 3. ‘Additional chemical test.’ A test facility shall specify one chemical test of
17 breath, blood, or urine, other than the test designated under subd. 2., which it is
18 prepared to administer for the purpose of authorized analysis as an additional
19 chemical test.

20 4. ‘Validity; procedure.’ A chemical test of blood or urine conducted for the
21 purpose of authorized analysis is valid as provided under s. 343.305 (6). The duties
22 and responsibilities of the laboratory of hygiene, department of health and family
23 services, and department of transportation under s. 343.305 (6) apply to a chemical
24 test of blood or urine conducted for the purpose of authorized analysis under this
25 subsection. Blood may be withdrawn from a person arrested for a violation of sub.

1 (16) (cm) 1. only by a physician, registered nurse, medical technologist, physician
2 assistant, or person acting under the direction of a physician and the person who
3 withdraws the blood, the employer of that person, and any hospital where blood is
4 withdrawn have immunity from civil or criminal liability as provided under s.
5 895.53.

6 5. 'Report.' A test facility which administers a chemical test of breath, blood,
7 or urine for the purpose of authorized analysis under this subsection shall prepare
8 a written report which shall include the findings of the chemical test, the
9 identification of the law enforcement officer or the person who requested a chemical
10 test, and the identification of the person who provided the sample or submitted to the
11 chemical test. The test facility shall transmit a copy of the report to the law
12 enforcement officer and the person who provided the sample or submitted to the
13 chemical test.

14 (c) *Additional and optional chemical tests.* 1. 'Additional chemical test.' If a
15 person is arrested for a violation of sub. (16) (cm) 1. and if the person is requested to
16 provide a sample or to submit to a test under par. (a) 1., the person may request the
17 test facility to administer the additional chemical test specified under par. (b) 3. or,
18 at his or her own expense, reasonable opportunity to have any qualified person
19 administer a chemical test of his or her breath, blood, or urine for the purpose of
20 authorized analysis.

21 2. 'Optional test.' If a person is arrested for a violation of sub. (16) (cm) 1. and
22 if the person is not requested to provide a sample or to submit to a test under par. (a)
23 1., the person may request the test facility to administer a chemical test of his or her
24 breath or, at his or her own expense, reasonable opportunity to have any qualified
25 person administer a chemical test of his or her breath, blood, or urine for the purpose

1 of authorized analysis. If a test facility is unable to perform a chemical test of breath,
2 the person may request the test facility to administer the designated chemical test
3 under par. (b) 2. or the additional chemical test under par. (b) 3.

4 3. 'Compliance with request.' A test facility shall comply with a request under
5 this paragraph to administer any chemical test that it is able to perform.

6 4. 'Inability to obtain chemical test.' The failure or inability of a person to
7 obtain a chemical test at his or her own expense does not preclude the admission of
8 evidence of the results of a chemical test required and administered under pars. (a)
9 and (b).

10 (d) *Admissibility; effect of test results; other evidence.* The results of a chemical
11 test required or administered under par. (a), (b), or (c) are admissible in any civil or
12 criminal action or proceeding arising out of the acts committed by a person alleged
13 to have violated sub. (16) (cm) 1. on the issue of whether the person had alcohol
14 concentrations at or above specified levels or was under the influence of an
15 intoxicant. Results of these chemical tests shall be given the effect required under
16 s. 885.235. This subsection does not limit the right of a law enforcement officer to
17 obtain evidence by any other lawful means.

18 (e) *Refusal.* No person may refuse a lawful request to provide one or more
19 samples of his or her breath, blood, or urine or to submit to one or more chemical tests
20 under par. (a). A person shall not be deemed to refuse to provide a sample or to submit
21 to a chemical test if it is shown by a preponderance of the evidence that the refusal
22 was due to a physical inability to provide the sample or to submit to the test due to
23 a physical disability or disease unrelated to the use of an intoxicant. Issues in any
24 action concerning a violation of par. (a) or this paragraph are limited to:

1 1. Whether the law enforcement officer had probable cause to believe the
2 person was violating or had violated sub. (16) (cm) 1.

3 2. Whether the person was lawfully placed under arrest for violating sub. (16)
4 (cm) 1.

5 3. Whether the law enforcement officer requested the person to provide a
6 sample or to submit to a chemical test and provided the information required under
7 par. (a) 2. or whether the request and information were unnecessary under par. (a)
8 3.

9 4. Whether the person refused to provide a sample or to submit to a chemical
10 test.

11 **(2m)** LICENSE DOCUMENT; CONTENT OF LICENSE. (a) Subject to pars. (b), (c), and
12 (d), the department shall design a single license document for licenses issued and
13 renewed under this section. The department shall complete the design of the license
14 document no later than the first day of the 4th month beginning after the effective
15 date of this paragraph [revisor inserts date], and shall distribute the design for
16 the license document to any sheriff who issues licenses under sub. (2) (a) or (c) for the
17 sheriff to use for licenses that he or she issues under this section.

18 (b) A license document for a license issued under this section shall contain all
19 of the following on one side:

- 20 1. The full name, date of birth, and residence address of the licensee.
- 21 2. A color photograph of the licensee.
- 22 3. A physical description of the licensee, including gender, height, weight, and
23 hair and eye color.
- 24 4. The date on which the license was issued.
- 25 5. The date on which the license expires.

1 6. The name of this state.

2 7. The name of the county that issues the license.

3 8. A unique identification number for each licensee that begins with a unique
4 code number, which the department shall establish, for the county listed in subd. 7.

5 (c) The license document may not contain the licensee's social security number.

6 (d) A license document issued under this section shall be, to the maximum
7 extent possible, tamper proof. The contents of the license document shall be included
8 in the document in substantially the same way that the contents of an operator's
9 license document issued under s. 343.17 are included on that document.

10 **(3) QUALIFICATIONS FOR OBTAINING A LICENSE.** An individual is eligible for a
11 license under this section if all of the following apply:

12 (a) The individual is at least 21 years of age.

13 (b) The individual does not have a physical disability that prevents him or her
14 from safely handling a weapon. The department shall promulgate rules specifying
15 the procedures and definitions that the sheriff is required to apply when determining
16 whether an individual is ineligible for a license under this section because he or she
17 has a physical disability that prevents him or her from safely handling a weapon.

18 (c) The individual is not prohibited under federal law from possessing a firearm
19 that has been transported in interstate or foreign commerce.

20 (d) The individual is not prohibited from possessing a firearm under s. 941.29.

21 (e) During the preceding 3 years, the individual has not been civilly committed
22 under s. 51.20 for being drug dependent.

23 (f) During the preceding 3 years, the individual has not been convicted for any
24 violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.

1 961 or of a federal law or a law of another state that is comparable to any provision
2 of ch. 961.

3 (g) The individual does not chronically and habitually use alcohol beverages or
4 other substances to the extent that his or her normal faculties are impaired. A person
5 is presumed chronically and habitually to use alcohol beverages or other substances
6 to the extent that his or her normal faculties are impaired if, within the preceding
7 3 years, any of the following applies:

8 1. The individual has been committed for involuntary treatment under s. 51.45
9 (13).

10 2. The individual has been convicted of a violation of s. 941.20 (1) (b).

11 3. In 2 or more cases arising out of separate incidents, a court has found the
12 individual to have committed a drunk driving offense.

13 (h) The individual has done one of the following:

14 2. Successfully completed a National Rifle Association firearm training or
15 firearm safety course or class that meets the requirements under sub. (4m).

16 3. Successfully completed a firearm training or firearm safety course or class
17 that meets the requirements under sub. (4m) and that is conducted by an instructor
18 certified by the state in which the course or class was conducted, by the National Rifle
19 Association, or by another national or state organization that certifies firearms
20 instructors.

21 4. Successfully completed a firearm safety or firearm training course or class
22 that is available to the general public, that meets the requirements under sub. (4m),
23 and that is offered by a law enforcement agency, a private or public school,
24 institution, or organization, or a firearm training school, if the course or class uses
25 instructors certified by the National Rifle Association, by another national or state

1 organization that certifies firearms instructors, or by the department or if the
2 curriculum meets the minimum requirements of the law enforcement standards
3 board.

4 5. Successfully completed a firearm safety or firearm training course or class
5 that meets the requirements under sub. (4m) and that is offered for law enforcement
6 officers, correctional officers, special deputies, private detectives licensed under s.
7 440.26, or other security or law enforcement personnel.

8 6. Participated in organized shooting competitions or military training that
9 gave the applicant experience with firearms that the sheriff determines is
10 substantially equivalent to any course or class specified in subds. 2. to 5.

11 (i) The individual has not been found incompetent under ch. 880 or, if the
12 individual has been found incompetent under ch. 880, he or she was subsequently
13 found to be competent and at least 5 years have elapsed from the date that he or she
14 was found to be competent.

15 (im) The individual was not the subject of a protective placement under s. 55.06
16 as a minor unless at least 5 years have elapsed from the date on which his or her
17 protective placement ended.

18 (j) The individual has not been involuntarily committed for treatment under
19 s. 51.20 due to mental illness or a developmental disability or, if the individual has
20 been involuntarily committed for treatment under s. 51.20 due to mental illness or
21 a developmental disability, he or she shows, through evidence from a psychiatrist
22 licensed in this state, that he or she has not been disabled due to mental illness or
23 a developmental disability for at least 5 years.

24 (k) The individual has not been found incompetent under s. 971.14 or, if the
25 individual has been found incompetent under s. 971.14, one of the following applies:

1 1. He or she was subsequently found to be competent and at least 5 years have
2 elapsed from the date that he or she was found to be competent.

3 2. He or she was not subsequently found to be competent and he or she shows,
4 through evidence from a psychiatrist licensed in this state, that he or she has not
5 been disabled due to mental illness or a developmental disability for at least 5 years.

6 (L) The individual has not been found not guilty by reason of mental disease
7 or defect under s. 971.17 or, if the individual has been found not guilty by reason of
8 mental disease or defect under s. 971.17, he or she presents evidence from a
9 psychiatrist licensed in this state that he or she has not been disabled due to mental
10 illness or a developmental disability for at least 5 years.

11 (m) Within the preceding 3 years, the individual was not convicted of a
12 misdemeanor crime of violence or was not serving a sentence, on probation, or subject
13 to a dispositional order under ch. 938 for committing a misdemeanor crime of
14 violence.

15 (mg) The individual has not been prohibited from obtaining a license under
16 sub. (10m) based on the individual having committed a misdemeanor crime of
17 violence.

18 (n) The individual has not been charged with a felony or a misdemeanor crime
19 of violence for which the prosecution was suspended under a deferred prosecution
20 agreement unless 3 years have elapsed since the date of the agreement.

21 (o) The individual is not the subject of any pending civil or criminal case, the
22 disposition of which could disqualify him or her from having a license under this
23 subsection.

24 (p) The individual has not previously submitted an application for a license
25 under this section to any county and had the application denied, unless each reason

this subsection

1 for the denial is no longer applicable because of changed circumstances or, if the
2 denial was based on a restriction under sub. (3) that applies for a specified period of
3 time, because that time period has run.

4 (q) The individual has not had a license that was issued under this section
5 revoked, unless each reason for the revocation is no longer applicable because of
6 changed circumstances or, if the revocation was based on a restriction under sub. (3)
7 that applies for a specified period of time, because that time period has run.

this subsection

8 (r) The individual has not been convicted under sub. (17) (c), (d), or (e).

9 (s) The individual is a Wisconsin resident.

10 (3m) FEDERAL PREEMPTION. The requirements under sub. (3) (e), (g) 1., (i), (im),
11 (j), (k), and (L) apply only to a person who may lawfully possess a firearm under
12 federal law.

13 (4m) COURSE OR CLASS REQUIREMENTS. A firearm training or firearm safety
14 course or class under sub. (3) (h) 2. to 5. shall include all of the following:

15 (a) Instruction on how to handle, load, unload, and store handguns.

16 (b) Instruction on the privilege of self-defense and the defense of others under
17 s. 939.48.

18 (c) Instruction on how to avoid injuring 3rd parties when defending himself,
19 herself, or others in a manner that is privileged under s. 939.48.

20 (d) Basic self-defense principles.

21 (e) Instruction on how to carry a concealed handgun safely.

22 (f) Instruction on firing a handgun.

23 (g) Practice firing a handgun.

24 (5) APPLICATION AND RENEWAL FORMS. The department shall design an
25 application form for use by individuals who apply for a license under this section and

1 a renewal form for use by individuals applying for renewal of a license under sub.
2 (15). The department shall complete the design of the application form no later than
3 the first day of the 4th month beginning after the effective date of this subsection
4 [revisor inserts date], and shall complete the design of the renewal form no later than
5 the first day of the 54th month beginning after the effective date of this subsection
6 [revisor inserts date]. The department shall distribute the designs for both forms
7 to any sheriff who issues licenses under sub. (2) (a) or (c) for use in making the
8 application forms and the license renewal forms described in this section. The forms
9 designed by the department under this subsection shall only require the applicant
10 to provide his or her name, address, date of birth, race, gender, height, weight, and
11 hair and eye color and shall include all of the following:

12 (e) A statement that the applicant is eligible for a license if the requirements
13 specified in sub. (3) are met.

14 (f) A statement explaining the privilege of self-defense and defense of others
15 under s. 939.48, with a place for the applicant to sign his or her name to indicate that
16 he or she has read and understands the statement.

17 (g) A statement that the applicant has received a copy of this section, with a
18 place for the applicant to sign his or her name to indicate that he or she has read and
19 understands the requirements of this section.

20 (h) A statement that the application is being made under oath and that an
21 applicant may be prosecuted if he or she gives a false answer to any question on the
22 application or submits a falsified document with the application.

23 (i) A statement of the penalties for giving a false answer to any question on the
24 application or submitting a falsified document with the application.

1 **(6) OATH.** An applicant shall swear under oath that the information that he or
2 she provides in an application submitted under sub. (7) and any document submitted
3 with the application is true and complete to the best of his or her knowledge.

4 **(7) SUBMISSION OF APPLICATION.** An individual may apply for a license under this
5 section with any sheriff. An applicant shall submit all of the following to the sheriff
6 through whom he or she is applying for a license:

7 (a) An application in the form prescribed under sub. (5) that has been sworn
8 to as required under sub. (6).

9 (bd) A license fee set by the sheriff issuing the license that does not exceed
10 either the cost to the sheriff of issuing a license to an individual under this section,
11 including the cost of equipment purchase or rental, or \$75, whichever is less.

12 (bh) The fee for a background check specified in sub. (9g) (c).

13 (bp) A shooting range improvement fee of \$15.

14 (bt) A law enforcement excellence fund fee of \$15.

15 (d) A photocopy of a certificate or other evidence showing the applicant's
16 qualifications under sub. (3) (h).

17 (e) A full-face photograph of the applicant taken within the 30-day period
18 immediately preceding the date of the applicant's application.

19 **(9) PROCESSING OF APPLICATION.** (a) Upon receiving an application submitted
20 under sub. (7), a sheriff shall request that the department conduct a background
21 check, as provided under sub. (9g).

22 (b) Subject to pars. (c) and (d), within 30 days after receiving an application
23 under sub. (7), a sheriff shall do one of the following:

24 1. Issue the license and promptly send the licensee his or her license document
25 by 1st class mail.

1 2. Deny the application, but only if the applicant fails to qualify under the
2 criteria specified in sub. (3). If the sheriff denies the application, he or she shall
3 inform the applicant in writing, stating the reason and factual basis for the denial
4 to the extent permitted under federal law.

5 (c) Except as provided in sub. (9r) or (10), a sheriff may not issue a license until
6 7 days, subject to extension under sub. (9g) (b) 3. c., have elapsed from the time that
7 the sheriff has received a confirmation number regarding the background check
8 under sub. (9g) (b) 1. from the department, unless the department has notified the
9 sheriff that the background check does not indicate that the applicant is disqualified
10 for a license under sub. (3) (c), (d), (e), (f), (g), (i), (im), (j), (k), (L), (m), (n), (o), or (r).

11 (d) The time period specified in par. (b) is tolled during the pendency of any
12 action brought under sub. (10m).

13 **(9g) BACKGROUND CHECKS.** (a) A sheriff shall request that the department
14 conduct a background check by calling the department, using a toll-free telephone
15 number provided by the department, and providing the department with the name,
16 date of birth, gender, and race of the applicant.

17 (b) Upon receiving a request under par. (a), the department shall conduct a
18 background check using the following procedure:

19 1. The department shall provide the sheriff with a confirmation number
20 confirming the receipt of the information under par. (a).

21 2. The department shall conduct the background check regarding an applicant
22 for a license under this section. In conducting a background check under this
23 subdivision, the department shall use the transaction information for management
24 of enforcement system and the national crime information center system.

1 3. The department shall notify the sheriff, either during the initial telephone
2 call or as soon thereafter as practicable, of the results of the background check as
3 follows:

4 a. If the background check indicates that the applicant does not qualify for a
5 license under sub. (3) (c), (d), (e), (f), (g), (i), (im), (j), (k), (L), (m), (n), (o), or (r), the
6 department shall provide the sheriff with a unique nonapproval number. The
7 department shall disclose to the sheriff the reason the applicant does not qualify for
8 a license under sub. (3) (c), (d), (e), (f), (g), (i), (im), (j), (k), (L), (m), (n), (o), or (r).

9 b. If the completed background check does not indicate that the applicant is
10 disqualified for a license under sub. (3) (c), (d), (e), (f), (g), (i), (im), (j), (k), (L), (m),
11 (n), (o), or (r), the department shall provide the sheriff with a unique approval
12 number.

13 c. If the background check indicates that the applicant was the subject of a
14 relevant criminal charge for which there is no recorded disposition or if, in the case
15 of a misdemeanor delinquency adjudication, the background check does not indicate
16 how long the resultant dispositional order was in effect, and the 7-day time period
17 described in sub. (9) (c) has not yet run, that time period is extended by 72 hours.
18 The department shall notify the sheriff of the extension as soon as practicable.
19 During the extended period, the department shall make all reasonable efforts to
20 obtain the missing information and shall notify the sheriff of the results of its efforts
21 as soon as practicable.

22 (bm) The department shall conduct the background check under par. (b)
23 immediately if, when requesting it under par. (a), the sheriff informs the department
24 that the background check is for an applicant for an emergency license under sub.
25 (9r).

1 (c) The department shall charge a sheriff a fee of \$8 for each background check
2 that the sheriff requests under par. (a), except that the department shall waive the
3 fee if, when requesting the background check, the sheriff informs the department
4 that the fee is being waived under sub. (9r) (c). The sheriff shall collect the fee from
5 the applicant unless the fee is waived under sub. (9r) (c).

6 (d) A sheriff shall maintain the original record of all completed application
7 forms and a record of all confirmation numbers and corresponding approval or
8 nonapproval numbers that he or she receives regarding background checks under
9 this subsection. The sheriff shall mail a duplicate copy of each completed application
10 form to the department.

11 (e) 1. The department shall check each duplicate application form received
12 under par. (d) against the information recorded by the department regarding the
13 corresponding request for a background check under this subsection. If the
14 department previously provided a unique approval number regarding the request
15 and nothing in the duplicate completed application form indicates that the applicant
16 is not qualified for a license under sub. (3) (c), (d), (e), (f), (g), (i), (im), (j), (k), (L), (m),
17 (n), (o), or (r), the department shall, except as provided in subd. 2., destroy all records
18 regarding that background check within 30 days after receiving the duplicate form.
19 If the department previously provided a unique approval number regarding the
20 request and the duplicate completed application form indicates that the applicant is
21 not qualified for a license under sub. (3) (c), (d), (e), (f), (g), (i), (im), (j), (k), (L), (m),
22 (n), (o), or (r), the department shall immediately notify the sheriff who issued the
23 license, and the sheriff shall revoke the license.

24 2. The department may maintain records necessary to administer this
25 subsection and, for a period of not more than 3 years after the department issues a

1 unique approval number, a log of dates of requests for background checks under this
2 subsection together with confirmation numbers and unique approval and
3 nonapproval numbers corresponding to those dates.

4 (f) The department shall promulgate rules authorizing it to obtain records
5 necessary to determine an applicant's eligibility under sub. (3) (e), (g) 1., (i), (im), and
6 (j) for a license issued under this section. The department may not disclose
7 information that it obtains under rules issued under this paragraph except to a
8 sheriff under par. (b) 3. or sub. (9r) (b) 2. or (11) (d) 3.

9 **(9r) EMERGENCY LICENSE.** (a) Unless the sheriff knows that the person is not
10 qualified for a license under sub. (3) (a) to (g) or (i) to (s), a sheriff may issue a license
11 under this section to an individual who does not satisfy the requirements under sub.
12 (3) (h) without regard for the waiting period under sub. (9) (c) if the sheriff determines
13 that immediate licensure is warranted to protect the individual from death or great
14 bodily harm, as defined in s. 939.22 (14). A sheriff who issues a license under this
15 paragraph shall notify the department and request an immediate background check
16 under sub. (9g).

17 (b) 1. Except as provided in subd. 2. and par. (d), a license issued under par. (a)
18 is valid for 120 days from the date on which it is issued and may not be renewed.

19 2. If the department notifies the sheriff that an individual to whom the sheriff
20 has issued a license under par. (a) does not qualify for a license under sub. (3) (c), (d),
21 (e), (f), (g), (i), (im), (j), (k), (L), (m), (n), (o), or (r), the sheriff shall revoke the license.

22 (c) A sheriff may waive the fees that would otherwise be required under subs.
23 (7) (bd), (bh), (bp), and (bt) and (9g) (c) for an individual who is applying for a license
24 under par. (a) if requiring the individual to pay the fees would create a hardship for
25 the individual. The department shall promulgate rules specifying the procedures

1 and definitions that the sheriff is required to apply when determining whether an
2 individual is eligible for a waiver of the fees for an emergency license under this
3 section as provided under this paragraph.

4 (d) A person who has been issued a license under par. (a) may obtain a license
5 under sub. (2) if he or she meets the qualifications specified under sub. (3) and
6 completes the application process specified in sub. (7). A license issued to a person
7 under par. (a) is void if the person is issued a license under sub. (2).

8 **(10) EXEMPTION FROM BACKGROUND CHECK.** Notwithstanding subs. (9) (a) and
9 (15) (c), a sheriff shall issue or renew a license under this section to any of the
10 following individuals without waiting 7 days or requesting a background check:

11 (a) A law enforcement officer.

12 (b) A correctional officer.

13 (c) A probation, parole, and extended supervision agent.

14 (d) A person who holds a current certification from the law enforcement
15 standards board under s. 165.85 (3) (c).

16 **(10m) DISQUALIFICATION PETITION REGARDING CERTAIN MISDEMEANANTS.** (a) If a
17 sheriff receives an application for a license under this section from a person who has
18 committed a misdemeanor crime of violence and the person is eligible for a license
19 under sub. (3) (m), the sheriff may file a petition under this subsection asking the
20 circuit court to enter an order barring the person from receiving a license. The
21 petition shall allege that the person would pose a substantial risk to others if the
22 person were granted a license under this section.

23 (b) The sheriff shall file any such petition in the circuit court of the sheriff's
24 county, or if applicable, the circuit court of the county of issuance designated under
25 sub. (2) (c). The sheriff may not file the petition more than 30 days after receiving

1 the person's completed application, unless the person was issued a license under sub.
2 (9r). The court shall allow the person 30 days to file an answer to the petition. The
3 court may hold an evidentiary hearing on the petition.

4 (c) If the court determines, by clear and convincing evidence, that the person
5 would pose a substantial risk to others if the person were granted a license under this
6 section, the court shall enter an order prohibiting the person from obtaining a license
7 under this section.

8 (d) If the court denies the sheriff's petition, the court shall award the person
9 costs and reasonable attorney fees.

10 (e) The court shall expedite any proceeding brought under this subsection.

11 (11) LICENSEE INFORMATION. (a) A sheriff who issues licenses to carry a
12 concealed weapon under this section shall, within 5 days after issuing a license,
13 notify the department that he or she has issued a license under this section and
14 provide the department with the information specified in sub. (2m) (b) concerning the
15 individual to whom the license was issued.

16 (am) The department shall maintain a computerized record listing the names
17 of all individuals who have been issued a license under this section along with the
18 information concerning each individual that is provided to the department by a
19 sheriff under par. (a). After entering the information that it receives under par. (a),
20 the department may not store, maintain, format, sort, or access the information in
21 any way other than by the name of the licensee or the identification number assigned
22 to the licensee under sub. (2m) (b) 8.

23 (c) 1. The department and any sheriff issuing licenses under this section shall
24 provide information concerning a specific licensee to a law enforcement agency, but

1 only if the law enforcement agency is requesting the information for any of the
2 following purposes:

3 a. To confirm that a license produced by an individual at the request of a law
4 enforcement officer is valid.

5 b. To confirm that the individual holds a valid license under this section, if the
6 individual is going armed with a concealed weapon but is not carrying his or her
7 license document and claims to hold a valid license issued under this section.

8 c. To investigate whether an individual intentionally falsely swore under sub.
9 (6) or (15) (b) 2., intentionally violated sub. (12) (a), or intentionally made a false
10 statement to a sheriff in connection with the individual's request for an emergency
11 license under sub. (9r).

12 2. If the department maintains information compiled under this section
13 regarding licensees through the transaction information for the management of
14 enforcement system and a law enforcement officer uses that system in the context
15 of a vehicle stop that meets the requirements of s. 349.02 (2) (a), the law enforcement
16 officer may only obtain information from that system regarding the licensee's status
17 as a licensee for the purposes listed in subd. 1.

18 (d) 1. In this paragraph:

19 a. "Clerk" means the clerk of the circuit court or, if it has enacted a law or an
20 ordinance in conformity with s. 346.63, the clerk of the court for a federally
21 recognized American Indian tribe or band in this state, a city, a village, or a town.

22 b. "Court automated information systems" means the systems under s. 758.19
23 (4).

24 2. The court automated information systems, or the clerk or register in probate,
25 if the information is not contained in or cannot be transmitted by the court

1 automated information systems, shall promptly notify the department of the name
2 of any individual with respect to whom any of the following occurs and the specific
3 reason for the notification:

4 a. The individual is charged with a felony, a misdemeanor crime of violence, a
5 violation of ch. 961, the solicitation, conspiracy, or attempt to commit any violation
6 of ch. 961, a violation of s. 941.20 (1) (b), a violation of sub. (17) (c), (d), or (e), or any
7 other crime that, upon conviction, would disqualify the individual from having a
8 license under this section.

9 b. The individual is charged with a drunk driving offense.

10 c. The individual is found by a court to have committed any offense described
11 in subd. 2. a. or b.

12 d. Prosecution of a felony or a misdemeanor crime of violence for which the
13 individual is charged is suspended under a deferred prosecution agreement.

14 e. The individual is found incompetent under s. 971.14.

15 f. The individual is found not guilty of any crime by reason of mental disease
16 or mental defect under s. 971.17.

17 g. The individual is involuntarily committed for treatment under s. 51.20 or
18 51.45.

19 h. The individual is found incompetent under ch. 880.

20 i. The individual becomes subject to an injunction described in s. 941.29 (1) (f)
21 or is ordered not to possess a firearm under s. 813.125 (4m).

22 j. A court has prohibited the individual from possessing a dangerous weapon
23 under s. 969.02 (3) (c).

24 3. Upon receiving a notice under subd. 2., the department shall immediately
25 determine if the individual who is the subject of the notice is a licensee, using the list

1 maintained under par. (am). If the department determines that the individual is a
2 licensee, the department shall immediately inform the sheriff of the county that
3 issued the license of the individual's name and the basis for the notice under subd.
4 2.

5 (12) UPDATED INFORMATION. (a) Within 10 days after being charged under
6 federal law or the law of another state with any crime or any drunk driving offense,
7 a licensee shall notify the sheriff of the county that issued his or her license of the
8 charge.

9 (b) No later than 30 days after changing his or her address, a licensee shall
10 inform the sheriff of the county that issued the license of his or her new address. The
11 sheriff shall provide the individual's new address to the department for inclusion in
12 the list under sub. (11) (am).

13 (13) LOST OR DESTROYED LICENSE. No later than 30 days after losing his or her
14 license document or after his or her license document is destroyed, a licensee shall
15 submit to the sheriff of the county that issued the license a notarized statement that
16 his or her license document has been lost or destroyed. The sheriff shall issue a
17 replacement license document upon receiving the notarized statement and a
18 replacement license fee of \$15.

19 (14) LICENSE REVOCATION AND SUSPENSION. (a) A sheriff shall revoke a license
20 that his or her county issued under this section if the licensee no longer meets all of
21 the criteria specified in sub. (3) (b) to (g), (i) to (n), or (p) to (s).

22 (am) 1. If any of the following occurs with respect to a licensee, the sheriff of
23 the county that issued the license shall suspend the licensee's license:

24 a. The licensee is the subject of a pending civil or criminal case, the disposition
25 of which could require revocation of his or her license under par. (a).

1 b. A court has prohibited the licensee from possessing a dangerous weapon
2 under s. 969.02 (3) (c).

3 2. If the sheriff suspends a license under subd. 1., he or she shall restore the
4 license if, upon disposition of the case, the person to whom the license was issued
5 meets all of the criteria specified in sub. (3).

6 (b) 1. If a sheriff revokes or suspends a license under this section, the revocation
7 or suspension shall take effect immediately.

8 2. A sheriff who suspends or revokes a license issued under this section shall
9 send the individual whose license has been suspended or revoked notice of the
10 suspension or revocation by certified mail within one day after the suspension or
11 revocation. Within 7 days after receiving the notice, the individual whose license has
12 been suspended or revoked shall deliver the license document personally or by
13 certified mail to the sheriff.

14 **(14m) APPEALS.** (a) A person aggrieved by any action by a sheriff denying an
15 application for a license or suspending or revoking a license under this section may
16 appeal directly to the circuit court of the sheriff's county or, if applicable, to the circuit
17 court of the county of issuance designated under sub. (2) (c).

18 (b) To begin an appeal under this subsection, the aggrieved person shall file a
19 petition for review with the clerk of the applicable circuit court within 30 days after
20 the date of the sheriff's action or, if applicable, within 30 days after the date of the
21 notice provided to the person under sub. (9) (b) 2. The petition shall state the
22 substance of the sheriff's action that the person is appealing from and the grounds
23 upon which the person believes the sheriff's action to be improper. The petition may
24 include a copy of any records or documents that are relevant to the grounds upon
25 which the person believes the sheriff's action to be improper.

1 (c) A copy of the petition shall be served upon the sheriff either personally or
2 by registered or certified mail within 5 days after the person files his or her petition
3 under par. (b).

4 (d) The sheriff shall file an answer within 15 days after being served with the
5 petition under par. (c). The answer shall include a brief statement of the actions
6 taken by the sheriff, and a copy of any documents or records on which the sheriff
7 based his or her action shall be included with the answer when filed.

8 (e) The court shall review the petition, the answer, and any records or
9 documents submitted with the petition or the answer. The review under this
10 paragraph shall be conducted by the court without a jury and shall be confined to the
11 petition, the answer, and any records or documents submitted with the petition or
12 the answer, except that in cases of alleged irregularities in procedure by the sheriff
13 the court may take testimony that the court determines is appropriate.

14 (f) The court shall affirm the sheriff's action unless the court finds any of the
15 following:

- 16 1. That the sheriff failed to follow procedure prescribed under this section.
- 17 2. That the sheriff erroneously interpreted a provision of law and a correct
18 interpretation compels a different action.
- 19 3. That the sheriff's action depends on a finding of fact that is not supported
20 by substantial evidence in the record.

21 (g) The court's decision shall provide whatever relief is appropriate regardless
22 of the original form of the petition.

23 **(15) LICENSE EXPIRATION AND RENEWAL.** (a) Except as provided in sub. (9r) (b)
24 1., a license issued under this section is valid for a period of 5 years from the date on

1 which the license is issued unless the license is suspended or revoked under sub. (9g)
2 (e) 1. or (14).

3 (b) The department shall design a form notice of expiration and shall distribute
4 the form to any sheriff who issues licenses under sub. (2) (a) or (c) for use under this
5 paragraph. At least 90 days before the expiration date of a license issued under this
6 section, the sheriff who issued the license shall mail to the licensee a notice of
7 expiration and a form for renewing the license. The sheriff shall renew the license
8 if, before the date the license expires, the licensee does all of the following:

9 1. Submits a renewal application on the form provided by the sheriff.

10 2. Submits a notarized affidavit swearing under oath that the information
11 provided under subd. 1. is true and complete to the best of his or her knowledge and
12 that he or she is qualified under sub. (3).

13 4. Pays all of the following:

14 a. A fee set by the sheriff that does not exceed either the cost to the sheriff of
15 renewing a license issued under this section, including the cost of equipment
16 purchase or rental, or \$75, whichever is less.

17 b. The fee for a background check specified in sub. (9g) (c).

18 c. A shooting range improvement fee of \$15.

19 d. A law enforcement excellence fund fee of \$15.

20 (c) The sheriff shall request that the department conduct a background check
21 of a licensee as provided under sub. (9g) before renewing the licensee's license under
22 par. (b).

23 (d) If an individual whose license has expired does not submit a renewal
24 application under par. (b) before 6 months after the expiration date, the license shall

1 permanently expire. An individual whose license has permanently expired may be
2 issued a new license if he or she applies for a license under sub. (7).

3 (15m) PRIVATE EMPLOYER RESTRICTIONS. (a) Except as provided in par. (b), a
4 private employer may prohibit a licensee or an out-of-state licensee that it employs
5 from carrying a concealed weapon or a particular type of concealed weapon in the
6 course of the licensee's or out-of-state licensee's employment or during any part of
7 the licensee's or out-of-state licensee's course of employment.

8 (b) A private employer may not prohibit a licensee or an out-of-state licensee,
9 as a condition of employment, from carrying a concealed weapon or a particular type
10 of concealed weapon in the licensee's or out-of-state licensee's own motor vehicle,
11 regardless of whether the motor vehicle is used in the course of employment.

12 (16) PROHIBITED ACTIVITY. (a) Neither a licensee nor an out-of-state licensee
13 may knowingly carry a concealed weapon in any of the following places:

- 14 1. A place that has been declared a nuisance under ch. 823.
- 15 2. A police station, sheriff's office, or state patrol station. This subdivision does
16 not prohibit a peace officer who is acting within the scope of his or her employment
17 from carrying a concealed weapon in a police station, sheriff's office, or state patrol
18 station.
- 19 3. A prison, jail, house of correction, or secured correctional facility.
- 20 4. A courthouse, except that a judge who is a licensee may carry a concealed
21 weapon in a courthouse in which he or she is presiding in court and may permit in
22 writing any other licensee or out-of-state licensee to carry a concealed weapon in a
23 courthouse in which he or she is presiding in court.

1 5. A place at which a school, college, or professional athletic event is taking
2 place, unless the event is related to firearms and the licensee or out-of-state licensee
3 is a participant in the event.

4 6. A school administration building.

5 7. Any premises for which a Class “B” or “Class B” license or permit has been
6 issued under ch. 125, unless one of the following applies:

7 a. The licensee or the out-of-state licensee is a person described in s. 941.237
8 (3) (a), (b), (c), (cm), or (d).

9 b. If the licensee or the out-of-state licensee is carrying a handgun, his or her
10 possession of the handgun is described in s. 941.237 (3) (e), (f), (g), (h), (i), or (j).

11 c. The sale of intoxicating liquors or fermented malt beverages or both on those
12 premises accounts for not more than 50% of the proprietor’s receipts from those
13 premises.

14 8. An airport, unless the weapon is encased for shipment as baggage to be
15 transported by aircraft.

16 9. A place in which carrying the weapon is prohibited by federal law.

17 10. A building or part of a building used for religious worship or another
18 religious purpose.

19 11. A building or part of a building that is used to provide child care services.

20 12. A building or part of a building that is used for a domestic violence victim
21 services program or by an organization that provides a safe haven for victims of
22 domestic violence.

23 13. A facility licensed as a hospital, as defined in s. 50.33 (2).

24 14. A building located on the campus of a private or public university, college,
25 or technical college.

1 15. A building or part of a building used for instructional purposes by a private
2 or public university, college, or technical college.

3 16. A kindergarten facility or classroom.

4 (am) Notwithstanding par. (a) 10., 11., 12., and 13., the owner or authorized
5 representative may permit a licensee or out-of-state licensee to carry a concealed
6 weapon in any of the places mentioned in par. (a) 10., 11., 12., or 13.

7 (at) Neither a licensee nor an out-of-state licensee may carry a concealed
8 weapon in a building owned or leased by the state or any political subdivision of the
9 state if the building provides electronic screening for weapons at all public entrances
10 to the building and for the locked storage of weapons on the premises while the
11 licensee or out-of-state licensee is in the building. This paragraph does not apply
12 to:

13 1. Peace officers or armed forces or military personnel who go armed in the line
14 of duty.

15 2. A person authorized to carry a weapon in the building by the chief of police
16 of the city, village, or town or the sheriff of the county in which the building is located.

17 3. A person authorized to carry a weapon in the building by the chief of the
18 capitol police, if the building is owned or leased by the state.

19 (b) Neither a licensee nor an out-of-state licensee may knowingly carry a
20 handgun in a school zone, as defined in s. 948.605 (1) (c), unless he or she is not in
21 or on the grounds of a school, as defined in s. 948.61 (1) (b), and one of the following
22 applies:

23 1. The individual is in a motor vehicle or on a snowmobile or bicycle.

24 2. The individual has exited a motor vehicle and is encasing the handgun or
25 storing it in the motor vehicle.

1 3. The individual is traveling directly to any person's private property from his
2 or her place of employment or business, from any person's private property, or from
3 a place outside of the school zone.

4 4. The individual is traveling directly to his or her place of employment or
5 business from another place of his or her employment or business, from any person's
6 private property, or from a place outside of the school zone.

7 5. The individual is traveling directly to a place outside of the school zone from
8 another place outside of the school zone, from any individual's private property, or
9 from his or her place of employment or business.

10 6. The individual's possession of the handgun is described in s. 948.605 (2) (b).

11 (c) Neither a licensee nor an out-of-state licensee may carry a weapon other
12 than a handgun on school premises, as defined in s. 948.61 (1) (c), unless he or she
13 is a person described in or a person whose conduct is described in s. 948.61 (3).

14 (cm) 1. A person may not carry a concealed weapon if any of the following
15 applies:

16 a. The person's alcohol concentration exceeds 0.08.

17 b. The person is under the influence of an intoxicant to a degree which
18 materially impairs his or her ability to handle the weapon.

19 2. A person may be charged with and a prosecutor may proceed upon a
20 complaint based upon a violation of subd. 1. a. or b. or both for acts arising out of the
21 same incident or occurrence. If the person is charged with violating both subd. 1. a.
22 and b., the offenses shall be joined. Subdivision 1. a. and b. each requires proof of a
23 fact for conviction which the other does not require.

24 (d) This subsection does not apply to a peace officer, as defined in s. 939.22 (22).

1 **(17) PENALTIES.** (a) Any person who violates sub. (2g) (b) or (c) may be required
2 to forfeit not more than \$25.

3 (b) Any person who violates sub. (2k) (e) or (16) may be fined not more than
4 \$1,000 or imprisoned for not more than 90 days or both.

5 (c) Any person who intentionally falsely swears under sub. (6) or (15) (b) 2. or
6 who intentionally makes a false statement to a sheriff in requesting or in connection
7 with the issuance of an emergency license under sub. (9r) shall be fined not less than
8 \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

9 (d) Any person who intentionally violates sub. (12) (a) shall be fined not less
10 than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

11 (e) Any person required under sub. (14) (b) 2. to relinquish or deliver a license
12 document to a sheriff who intentionally violates the requirements of that subdivision
13 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for
14 not more than 9 months.

15 **(18) ACCESS TO RECORDS.** Records created or kept under this section by the
16 department or a sheriff, other than reports created under sub. (19) or records created
17 under sub. (20), are not subject to access under s. 19.35.

18 **(19) STATISTICAL REPORT.** (a) By February 1 of each year, a sheriff who is issuing
19 or renewing licenses under this section shall submit a statistical report to the
20 department indicating the number of licenses applied for, issued, denied, suspended,
21 and revoked under this section during the previous calendar year. For the licenses
22 denied, the report shall indicate the reasons for the denials and the part of the
23 application process during which the reasons for denial were discovered. For the
24 licenses suspended or revoked, the report shall indicate the reasons for the
25 suspensions and revocations.

1 (b) By March 1 of each year, the department shall submit a statistical report
2 to the legislature under s. 13.172 (2) and to the governor that is compiled from the
3 reports submitted under par. (a) and that indicates the number of licenses applied
4 for, issued, denied, suspended, and revoked under this section during the previous
5 calendar year. For the licenses denied, the report shall indicate the reasons for the
6 denials and the part of the application process in which the reasons for denial were
7 discovered. For the licenses suspended or revoked, the report shall indicate the
8 reasons for the suspensions and revocations.

9 **(20) LAW ENFORCEMENT EXCELLENCE FUND.** (a) If a county's sheriff issues licenses
10 under sub. (2) (a) or is party to an agreement under sub. (2) (c), the county board shall
11 establish a law enforcement excellence fund. All money received by a sheriff from
12 payments made under subs. (7) (bt) and (15) (b) 4. d. shall be deposited in accordance
13 with s. 59.25 (3) (u) 4. in the law enforcement excellence fund established under this
14 subsection.

15 (b) A law enforcement excellence fund established under this subsection shall
16 be used to improve law enforcement services in the county and may not be used to
17 supplant or replace other funds otherwise available to the sheriff.

18 **(20m) GRANTS FOR SHOOTING RANGES.** (a) Using the fees collected under sub.
19 (7) (bp) and (15) (b) 4. c., a sheriff issuing licenses under this section shall award
20 grants to persons for construction or improvement of shooting ranges.

21 (b) A grant awarded under this subsection may be for up to 50% of the cost of
22 the construction or improvement of the shooting range. A grant awarded under this
23 subsection may not be used to pay for any of the following:

24 1. The construction of clubhouses and facilities that are not essential to the
25 operation of the shooting range.

1 2. The operation and maintenance of the shooting range.

2 (c) In order to receive a grant under this subsection, the person creating or
3 improving a shooting range shall agree to provide, for a fee of not more than \$20, a
4 firearm safety course or class that will qualify an individual to satisfy the
5 requirements under sub. (3) (h) for a license to carry a concealed weapon.

6 (d) In determining whether to make a grant under this subsection to a
7 particular applicant, the sheriff shall consider the potential of the project to meet the
8 needs of firearm safety courses or classes that meet the requirements under sub.
9 (4m) in the area served by the shooting range relative to the proposed cost of the
10 construction or improvement.

11 **(21) IMMUNITY.** (a) The department and its employees, sheriffs and their
12 employees, clerks, as defined in sub. (11) (d) 1. a., and their staff, court automated
13 information systems, as defined under sub. (11) (d) 1. b., and its employees, and
14 counties and their employees are immune from liability arising from any act or
15 omission under this section, if done in good faith.

16 (b) A person providing a firearm safety or firearm training course or class in
17 good faith is immune from liability arising from any act or omission related to the
18 course or class if the course or class is one described in sub. (3) (h).

19 (c) A business or a nonprofit organization that permits a person to carry a
20 concealed weapon on property that it owns or occupies is immune from any liability
21 arising from its decision to do so, if done in good faith.

22 (d) An employer that permits any of its employees to carry a concealed weapon
23 under sub. (15m) is immune from any liability arising from its decision to do so, if
24 done in good faith.

25 **SECTION 22.** 440.26 (3m) of the statutes is amended to read:

1 440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS. The department shall
2 promulgate rules relating to the carrying of dangerous weapons by a person who
3 holds a license or permit issued under this section or who is employed by a person
4 licensed under this section. The rules shall allow the person to go armed with a
5 concealed weapon as permitted under s. 175.50 if the person is licensed under that
6 section and shall meet the minimum requirements specified in 15 USC 5902 (b).

7 **SECTION 23.** 813.12 (6) (am) 1. of the statutes is amended to read:

8 813.12 (6) (am) 1. If an injunction is issued or extended under sub. (4) or if a
9 tribal injunction is filed under s. 806.247 (3), the clerk of the circuit court shall notify
10 the department of justice of the injunction and shall provide the department of
11 justice with information concerning the period during which the injunction is in
12 effect and information necessary to identify the respondent for purposes of a firearms
13 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
14 175.50 (9g) (b).

15 **SECTION 24.** 813.12 (6) (am) 2. of the statutes is amended to read:

16 813.12 (6) (am) 2. Except as provided in subd. 3., the department of justice may
17 disclose information that it receives under subd. 1. only as part of a firearms
18 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
19 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or
20 (11) (d) 3.

21 **SECTION 25.** 813.122 (9) (am) 1. of the statutes is amended to read:

22 813.122 (9) (am) 1. If an injunction is issued or extended under sub. (5), the
23 clerk of the circuit court shall notify the department of justice of the injunction and
24 shall provide the department of justice with information concerning the period
25 during which the injunction is in effect and information necessary to identify the

1 respondent for purposes of a firearms restrictions record search under s. 175.35 (2g)
2 (c) or a background check under s. 175.50 (9g) (b).

3 **SECTION 26.** 813.122 (9) (am) 2. of the statutes is amended to read:

4 813.122 (9) (am) 2. Except as provided in subd. 3., the department of justice
5 may disclose information that it receives under subd. 1. only as part of a firearms
6 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
7 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or
8 (11) (d) 3.

9 **SECTION 27.** 813.125 (5r) (a) of the statutes is amended to read:

10 813.125 (5r) (a) If an order prohibiting a respondent from possessing a firearm
11 is issued under sub. (4m), the clerk of the circuit court shall notify the department
12 of justice of the existence of the order prohibiting a respondent from possessing a
13 firearm and shall provide the department of justice with information concerning the
14 period during which the order is in effect and information necessary to identify the
15 respondent for purposes of a firearms restrictions record search under s. 175.35 (2g)
16 (c) or a background check under s. 175.50 (9g) (b).

17 **SECTION 28.** 813.125 (5r) (b) of the statutes is amended to read:

18 813.125 (5r) (b) Except as provided in par. (c), the department of justice may
19 disclose information that it receives under par. (a) only as part of a firearms
20 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
21 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or
22 (11) (d) 3.

23 **SECTION 29.** 885.235 (1g) (intro.) of the statutes is amended to read:

24 885.235 (1g) (intro.) In any action or proceeding in which it is material to prove
25 that a person was under the influence of an intoxicant or had a prohibited alcohol

1 concentration or a specified alcohol concentration while operating or driving a motor
2 vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating
3 a motorboat, except a sailboat operating under sail alone, while operating a
4 snowmobile, while operating an all-terrain vehicle, while going armed with a
5 concealed weapon, or while handling a firearm, evidence of the amount of alcohol in
6 the person's blood at the time in question, as shown by chemical analysis of a sample
7 of the person's blood or urine or evidence of the amount of alcohol in the person's
8 breath, is admissible on the issue of whether he or she was under the influence of an
9 intoxicant or had a prohibited alcohol concentration or a specified alcohol
10 concentration if the sample was taken within 3 hours after the event to be proved.
11 The chemical analysis shall be given effect as follows without requiring any expert
12 testimony as to its effect:

13 **SECTION 30.** 885.235 (1g) (e) of the statutes is created to read:

14 885.235 (1g) (e) In a case brought under s. 175.50 (16) (cm) 1. a. or b., the fact
15 that the analysis shows that the person had an alcohol concentration of more than
16 0.0 but less than 0.08 is relevant evidence on the issue of whether the person was
17 intoxicated or had an alcohol concentration of 0.08 or more but is not to be given any
18 prima facie effect. In a case brought under s. 175.50 (16) (cm) 1. a., the fact that the
19 analysis shows that the person had an alcohol concentration of 0.08 or more is prima
20 facie evidence that he or she had an alcohol concentration of 0.08 or more.

21 **SECTION 31.** 938.396 (8) of the statutes is amended to read:

22 938.396 (8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for
23 an act that would be a felony if committed by an adult, the court clerk shall notify
24 the department of justice of that fact. No other information from the juvenile's court
25 records may be disclosed to the department of justice except by order of the court.

1 The department of justice may disclose any information provided under this
2 subsection only as part of a firearms restrictions record search under s. 175.35 (2g)
3 (c) or a background check under s. 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g)
4 (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

5 **SECTION 32.** 938.396 (8m) of the statutes is created to read:

6 938.396 (8m) (a) Notwithstanding sub. (2), if a juvenile is adjudged delinquent
7 for an act that would be a misdemeanor crime of violence, as defined in s. 175.50 (1)
8 (e), if committed by an adult, the court clerk shall notify the department of justice
9 of that fact. Except as provided in par. (b), no other information from the juvenile's
10 court records may be disclosed to the department of justice except by order of the
11 court.

12 (b) If an applicant for a license to carry a concealed weapon under s. 175.50 was
13 adjudicated delinquent as a juvenile in a case covered by par. (a), the department of
14 justice may request permission to review court records relating to the case for the
15 purpose of determining whether the applicant meets the requirement under s.
16 175.50 (3) (m). Upon receiving such a request, the court shall open for inspection by
17 authorized representatives of the department of justice the records of the court
18 relating to that case.

19 (c) The department of justice may disclose information provided or obtained
20 under this subsection only as part of a background check under s. 175.50 (9g) (b) or
21 to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

22 **SECTION 33.** 941.20 (1) (a) of the statutes is amended to read:

23 941.20 (1) (a) Endangers another's safety by the negligent operation or
24 handling of a dangerous weapon; ~~or.~~

25 **SECTION 34.** 941.20 (1) (b) of the statutes is amended to read:

1 941.20 (1) (b) ~~Operates or goes armed with~~ a firearm while he or she is under
2 the influence of an intoxicant; ~~or.~~

3 **SECTION 35.** 941.20 (1) (bm) of the statutes is created to read:

4 941.20 (1) (bm) Goes armed with a firearm while he or she is under the
5 influence of an intoxicant. This paragraph does not apply to a licensee, as defined
6 in s. 175.50 (1) (d), or an out-of-state licensee, as defined in s. 175.50 (1) (g), who goes
7 armed with a concealed handgun, as defined in s. 175.50 (1) (bm), while he or she is
8 under the influence of an intoxicant or while he or she has an alcohol concentration,
9 as defined in s. 340.01 (1v), that exceeds 0.08.

10 **SECTION 36.** 941.23 of the statutes is renumbered 941.23 (1) (intro.) and
11 amended to read:

12 941.23 (1) (intro.) Any person ~~except a peace officer,~~ other than one of the
13 following, who goes armed with a concealed and dangerous weapon is guilty of a
14 Class A misdemeanor:

15 **SECTION 37.** 941.23 (1) (a) of the statutes is created to read:

16 941.23 (1) (a) A peace officer.

17 **SECTION 38.** 941.23 (1) (b) of the statutes is created to read:

18 941.23 (1) (b) An individual holding a valid license under s. 175.50 or
19 authorized under the law of another state to go armed with a concealed weapon in
20 that state, if the dangerous weapon is a weapon, as defined under s. 175.50 (1) (j).

21 **SECTION 39.** 941.23 (1) (c) of the statutes is created to read:

22 941.23 (1) (c) An individual who goes armed with a concealed and dangerous
23 weapon, as defined in s. 175.50 (1) (j), in his or her own dwelling or place of business
24 or on land that he or she owns, leases, or legally occupies, unless he or she is
25 prohibited under federal or state law from possessing that weapon.

1 **SECTION 40.** 941.23 (2) of the statutes is created to read:

2 941.23 (2) An individual formerly licensed under s. 175.50 whose license has
3 been suspended or revoked under s. 175.50 (14) may not assert his or her refusal to
4 accept or failure to receive a notice of revocation or suspension mailed under s. 175.50
5 (14) (b) 2. as a defense to prosecution under sub. (1), regardless of whether the person
6 has complied with s. 175.50 (12).

7 **SECTION 41.** 941.235 (2) of the statutes is renumbered 941.235 (2) (intro.) and
8 amended to read:

9 941.235 (2) (intro.) This section does not apply to ~~peace~~ any of the following:

10 (a) Peace officers or armed forces or military personnel who go armed in the line
11 of duty or to any.

12 (b) A person duly authorized by the chief of police of any city, village or town,
13 the chief of the capitol police or the sheriff of any county to possess a firearm in any
14 building under sub. (1).

15 **SECTION 42.** 941.235 (2) (c) of the statutes is created to read:

16 941.235 (2) (c) An individual holding a valid license under s. 175.50 or
17 authorized under the law of another state to go armed with a concealed weapon, as
18 defined in s. 175.50 (1) (j), if the firearm is a handgun, as defined in s. 175.50 (1) (bm).

19 **SECTION 43.** 941.237 (3) (ct) of the statutes is created to read:

20 941.237 (3) (ct) An individual holding a valid license under s. 175.50 or
21 authorized under the law of another state to go armed with a concealed weapon in
22 that state.

23 **SECTION 44.** 941.295 (2) (d) of the statutes is amended to read:

24 941.295 (2) (d) Any manufacturer or seller ~~whose of~~ electric weapons are used
25 ~~in this state solely by persons, unless the manufacturer or seller engages in the~~

1 conduct described in sub. (1) with the intent to provide an electric weapon to someone
2 other than a person specified in pars. (a) to (c) or sub. (2g) (a) or to a person for use
3 in his or her dwelling or place of business or on land that he or she owns, leases, or
4 legally occupies.

5 **SECTION 45.** 941.295 (2g) of the statutes is created to read:

6 941.295 (2g) The prohibition in sub. (1) on possessing or going armed with an
7 electric weapon does not apply to any of the following:

8 (a) An individual holding a valid license under s. 175.50 or authorized under
9 the law of another state to go armed with a concealed weapon in that state.

10 (b) An individual who goes armed with an electric weapon in his or her own
11 dwelling or place of business or on land that he or she owns, leases, or legally
12 occupies, unless he or she is prohibited under federal or state law from possessing
13 that weapon.

14 **SECTION 46.** 941.295 (2r) of the statutes is created to read:

15 941.295 (2r) The prohibition in sub. (1) on transporting an electric weapon does
16 not apply to any of the following:

17 (a) An individual holding a valid license under s. 175.50 or authorized under
18 the law of another state to go armed with a concealed weapon in that state.

19 (b) An individual who transports an electric weapon from any of the following
20 places to any of the following places:

21 1. His or her dwelling.

22 2. His or her own place of business.

23 3. Land that he or she owns, leases, or legally occupies.

24 **SECTION 47.** 943.13 (1e) (bm) of the statutes is created to read:

1 943.13 (1e) (bm) “Licensee” means a licensee, as defined in s. 175.50 (1) (d), or
2 an out-of-state licensee, as defined in s. 175.50 (1) (g).

3 **SECTION 48.** 943.13 (1e) (g) of the statutes is created to read:

4 943.13 (1e) (g) “Weapon” has the meaning given in s. 175.50 (1) (j).

5 **SECTION 49.** 943.13 (1m) (b) of the statutes is amended to read:

6 943.13 (1m) (b) Enters or remains on any land of another after having been
7 notified by the owner or occupant not to enter or remain on the premises. This
8 paragraph does not apply to a licensee if the owner’s or occupant’s intent is to prevent
9 the licensee from going armed with a concealed weapon on the owner’s or occupant’s
10 land.

11 **SECTION 50.** 943.13 (1m) (c) of the statutes is created to read:

12 943.13 (1m) (c) 1. While going armed with a concealed weapon, enters or
13 remains at a residence that the person does not own or occupy after the owner of the
14 residence, if he or she has not leased it to another person, or the occupant of the
15 residence has notified the actor not to enter or remain at the residence while going
16 armed with a concealed weapon or with that type of concealed weapon. In this
17 subdivision, “residence,” with respect to a single-family residence, includes all of the
18 premises, and “residence,” with respect to a residence that is not a single-family
19 residence, does not include any common area of the building in which the residence
20 is located.

21 2. While going armed with a concealed weapon, enters or remains in any part
22 of a nonresidential building that the person does not own or occupy after the owner
23 of the building, if he or she has not leased it to another person, or the occupant of the
24 building has notified the actor not to enter or remain in the building while going
25 armed with a concealed weapon or with that type of concealed weapon. This

1 subdivision does not apply to a part of a building occupied by the state or one of its
2 political subdivisions or to any part of a building used for parking.

3 **SECTION 51.** 943.13 (2) of the statutes is renumbered 943.13 (2) (am), and
4 943.13 (2) (am) (intro.) and 1., as renumbered, are amended to read:

5 943.13 (2) (am) (intro.) A person has received notice from the owner or occupant
6 within the meaning of sub. (1m) (b), (e) or (f) if he or she has been notified personally,
7 either orally or in writing, or if the land is posted. Land is considered to be posted
8 under this ~~subsection~~ paragraph under either of the following procedures:

9 1. If a sign at least 11 inches square is placed in at least 2 conspicuous places
10 for every 40 acres to be protected. The sign must carry an appropriate notice and the
11 name of the person giving the notice followed by the word “owner” if the person giving
12 the notice is the holder of legal title to the land and by the word “occupant” if the
13 person giving the notice is not the holder of legal title but is a lawful occupant of the
14 land. Proof that appropriate signs as provided in this ~~paragraph~~ subdivision were
15 erected or in existence upon the premises to be protected prior to the event
16 complained of shall be prima facie proof that the premises to be protected were posted
17 as provided in this ~~paragraph~~ subdivision.

18 **SECTION 52.** 943.13 (2) (bm) of the statutes is created to read:

19 943.13 (2) (bm) 1. In this paragraph, “sign” means a sign that states a
20 restriction imposed under subd. 2. that is at least 8.5 inches by 11 inches.

21 2. For the purposes of sub. (1m) (c) 2., an owner or occupant of a part of a
22 nonresidential building has notified an individual not to enter or remain in that part
23 of the nonresidential building while going armed with a concealed weapon or with
24 a particular type of concealed weapon if the owner or occupant has done all of the
25 following:

1 a. Posted a sign that is located in a prominent place near the primary entrance
2 to the part of the nonresidential building to which the restriction applies.

3 b. Personally and orally notified the individual of the restriction.

4 **SECTION 53.** 943.13 (3) of the statutes is amended to read:

5 943.13 (3) Whoever erects on the land of another signs which are the same as
6 or similar to those described in sub. (2) (am) without obtaining the express consent
7 of the lawful occupant of or holder of legal title to such land is subject to a Class C
8 forfeiture.

9 **SECTION 54.** 946.32 (3) of the statutes is created to read:

10 946.32 (3) This section does not apply to offenses that may be prosecuted under
11 s. 175.50 (17) (c).

12 **SECTION 55.** 948.605 (2) (c) of the statutes is created to read:

13 948.605 (2) (c) Paragraph (a) does not apply to the possession of a handgun, as
14 defined in s. 175.50 (1) (bm), by an individual holding a valid license under s. 175.50
15 or authorized under the law of another state to go armed with a concealed handgun
16 who is going armed with a concealed handgun as permitted under s. 175.50.

17 **SECTION 56.** 948.61 (3m) of the statutes is created to read:

18 948.61 (3m) This section does not apply to the possession of a weapon, as
19 defined in s. 175.50 (1) (j), other than a handgun, as defined in s. 175.50 (1) (bm), by
20 an individual holding a valid license under s. 175.50 or authorized under the law of
21 another state to go armed with a concealed weapon who is going armed with a
22 concealed weapon as permitted under s. 175.50.

23 **SECTION 57. Nonstatutory provisions.**

24 (1) Using the procedure under section 227.24 of the statutes, the department
25 of justice shall promulgate rules required under sections 165.25 (11) (a) and 175.35

1 (2g) (c) 3. of the statutes and under section 175.50 (9g) (f) of the statutes, as created
2 by this act, for the period before the effective date of the permanent rules
3 promulgated under those sections, but not to exceed the period authorized under
4 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
5 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
6 promulgating a rule under this subsection as an emergency rule is necessary for the
7 preservation of public peace, health, safety, or welfare and is not required to provide
8 a finding of an emergency for a rule promulgated under this subsection.

9 **SECTION 58. Effective dates.** This act takes effect on the first day of the 5th
10 month beginning after publication, except as follows:

11 (1) The treatment of sections 165.25 (11) (a) and 175.50 (2) (b), (2m), and (5) of
12 the statutes takes effect on the day after publication.

13 (END)

INSERTS

Out of order

2003 - 2004 LEGISLATURE

LRBs0161/3

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✓
**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 214**

INS. AA
to Ins Analysis

October 15, 2003 - Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

1 AN ACT *to renumber and amend* 29.091, 29.621 (4), 941.23 and 941.235 (2); *to*
2 ~~*amend* 23.33 (3) (e), 29.089 (2), 51.20 (13) (cv) 4., 51.20 (16) (gm), 51.30 (3) (a),~~
3 ~~165.82 (1) (intro.), 165.82 (2), 440.26 (3m), 813.12 (6) (am) 1., 813.12 (6) (am) 2.,~~
4 ~~813.122 (9) (am) 1., 813.122 (9) (am) 2., 813.125 (5r) (a), 813.125 (5r) (b), 938.396~~
5 ~~(8) and 941.295 (2) (d); and *to create* 29.091 (2), 29.621 (4) (b), 55.06 (17) (bm),~~
6 ~~59.25 (3) (u), 167.31 (4) (ar), 175.50, 938.396 (8m), 941.23 (1) (a), 941.23 (1) (b),~~
7 ~~941.23 (1) (c), 941.23 (2), 941.235 (2) (c), 941.237 (3) (c), 941.295 (2g), 941.295~~
8 ~~(2r), 946.32 (3), 948.605 (2) (c) and 948.61 (3m) of the statutes; relating to:~~
9 ~~carrying or going armed with a concealed weapon, requiring the exercise of~~
10 ~~rule-making authority, and providing penalties.~~

INSERT ANALYSIS

Analysis by the Legislative Reference Bureau

Under current law, no person other than a peace officer may go armed with a concealed and dangerous weapon. The "going armed with" language applies to, among others, cases in which a person is carrying a concealed weapon but has not



INS ANALYSIS CONT

gone and is not going anywhere ^{with it} and cases in which a weapon is readily accessible to — but not physically carried by — a person in a car. A person who violates the prohibition on going armed with a concealed and dangerous weapon may be fined not more than \$10,000 or imprisoned for not more than nine months or both. But under *State v. Hamdan*, 2003 WI 113, __ Wis. 2d __, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when:

- 1) the need to exercise this right is substantial; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person was not motivated by an unlawful purpose in concealing it.

~~In addition~~ ^{INS X-1} current law prohibits, with certain exceptions, going armed with or possessing a firearm in a number of places, such as in a public building, tavern, state park, or wildlife refuge or within 1,000 feet of the grounds of a school. Current law also prohibits, with certain exceptions, carrying a loaded or unencased firearm in an automobile, motorboat, or airplane. A person who violates one of these prohibitions is subject to civil or criminal penalties.

This ~~substitute amendment~~ ^{bill} permits a person to go armed with a concealed and dangerous weapon in his or her own home or place of business or on land that he or she owns, leases, or legally occupies, unless the person is prohibited under federal or state law from possessing that weapon (prohibitions that apply to firearms if the person has been convicted of a misdemeanor crime of domestic violence or a felony; the person unlawfully uses a controlled substance; the person has been committed to a mental health facility; or the person is subject to a stalking, harassment, or domestic abuse restraining order or a harassment, domestic abuse, or child abuse injunction).

This ~~substitute amendment~~ ^{bill} also creates a procedure by which a person may apply to a county sheriff for a license to carry a concealed weapon more generally. The license authorizes a person to carry (defined in the bill to mean to go armed with) a concealed weapon (defined in the ~~substitute amendment~~ ^{bill} as a handgun, a stungun, a tear gas gun, a knife other than a switchblade, or a billy club) anywhere in this state except in particular places specified in the ~~substitute amendment~~ ^{bill}. These specified places include a police station, a sheriff's office, a state patrol station, a prison, a jail, a tavern (unless: 1) the person owns or manages the tavern; 2) the person is otherwise authorized to possess a handgun at the tavern; or 3) the sale of alcohol accounts for no more than 50% of the tavern's receipts), a school administration building, an airport, and any place in which the carrying of a weapon is prohibited by federal law. The ~~substitute amendment~~ ^{bill} also exempts licensees from the prohibition on possessing firearms in a school zone under certain circumstances.

Specifically, the ~~substitute amendment~~ ^{bill} authorizes a licensee to carry a handgun in a school zone if: 1) the licensee is in a motor vehicle or on a snowmobile or bicycle; 2) the licensee has exited from a motor vehicle and is encasing the handgun or storing it in the motor vehicle; or 3) the licensee is traveling directly between any two of the following places: any person's private property, the licensee's place of employment or business, or a place outside of the school zone. This exemption does not apply if the licensee is on the school grounds. At the same time, the ~~substitute amendment~~ ^{bill} reduces the penalty for licensees who unlawfully carry handguns in a school zone or

INS 2-1

INS X-1

or a restaurant with a liquor license

INS A-1

bill

INS A-2

y's

or restaurant

use twice

among other things

involuntarily

or

bill

INS X-4

~~on school grounds or who carry electric weapons, tear gas guns, knives, or billy clubs on school grounds.~~

Under the ~~substitute amendment~~, a county sheriff must issue a license to carry a concealed weapon to a person who meets the qualifications established in the ~~substitute amendment~~ for the license unless the county board of the sheriff's county decides by a two-thirds vote, taken before the fourth month after the ~~substitute amendment~~ becomes law, to authorize the sheriff not to issue concealed weapons licenses. The county board's vote does not prohibit the sheriff from issuing licenses; he or she may still choose to do so. The ~~substitute amendment~~ also allows two or more sheriffs to enter into cooperative agreements under which the sheriffs may jointly issue licenses to carry a concealed weapon or exercise their other responsibilities under the substitute amendment.

The ~~substitute amendment~~ specifies the requirements that a person must satisfy in order to qualify for a license to carry a concealed weapon. Included among the requirements that a person must satisfy are the following: 1) he or she must be at least 21 years old; 2) he or she does not have a physical disability that prevents him or her from safely handling a weapon; 3) he or she must be eligible to possess a firearm under federal law; 4) he or she must not be prohibited from possessing a firearm due to a felony conviction, a juvenile delinquency adjudication, an order issued in a civil commitment case, or any other order prohibiting the person from possessing a firearm; 5) he or she must not have been committed for the treatment of drug dependency during the preceding three years; 6) he or she must not have been convicted of an offense relating to controlled substances during the preceding three years; 7) he or she must not chronically or habitually use alcohol or other substances to the extent that his or her normal faculties are impaired; 8) he or she must have successfully completed one of several specified firearms training or safety courses or classes; 9) he or she must not have been subject to a finding of incompetency, subject of a protective placement as a minor based on a developmental disability, found not guilty of a crime by reason of mental disease or mental defect, or involuntarily committed for treatment of mental illness during the preceding five years; 10) he or she must not have been convicted of one of a set of specified misdemeanors involving violence or serving a sentence for committing such a misdemeanor within the preceding three years; and 11) he or she must be a Wisconsin resident. In addition, the ~~substitute amendment~~ requires the Department of Justice (DOJ) to conduct a background check of a person who applies for a license to carry a concealed weapon to help determine the person's eligibility for a license. The background check requirement does not apply to a person applying for a license if the person is a law enforcement officer, a correctional officer, a probation and parole agent, or a person holding a current certification from the law enforcement standards board.

Furthermore, the ~~substitute amendment~~ does all of the following:
1. Allows a sheriff to issue an emergency license to an individual if the sheriff determines that immediate licensure is warranted to protect the individual from death or great bodily harm.

under state law

INS X-5

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INS X-3

INS ANALYSIS CONT

2003 - 2004 Legislature

- 4 -

LRBs0161/3
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~~DOJ~~ DOJ may provide information from that list regarding a specific licensee

~~any information that DOJ compiles through the information management system of the management of information system~~

2. Provides that a license to carry a concealed weapon is valid for five years and establishes a renewal procedure that includes a background check of the person renewing the license.
 if the licensee ✓

3. Requires a sheriff to revoke a license to carry a concealed weapon if the licensee no longer meets all of the requirements for licensure.

4. Requires a sheriff to suspend a license to carry a concealed weapon if the licensee is the subject of a civil or criminal case that may ultimately lead to the revocation of the license or, after being charged with a misdemeanor, is ordered by the court not to possess a firearm.

5. Provides that a person whose application for a license is denied or whose license is suspended or revoked by the sheriff may appeal the sheriff's action to circuit court for review by a judge.

6. Specifies the information that must be on a license to carry a concealed weapon and an application for such a license and requires DOJ to design the form of the license and the license application and renewal forms.

7. Requires the sheriff to provide information to DOJ concerning a person licensed to carry a concealed weapon, and requires DOJ to keep a computerized list of persons licensed to carry a concealed weapon.
 The list kept by DOJ is available only to law enforcement agencies in certain specified circumstances.
 and

8. Requires ~~the clerk of each court~~ ^{and only} to notify DOJ of court proceedings relating to licensees and nonlicensees (including juvenile delinquency, mental health commitment proceedings that are closed to the public) if those proceedings require suspension or revocation of the person's license if he or she is a licensee.

9. Requires each licensee to notify the sheriff within ten days after being charged with a crime or a drunk driving offense under federal law or the law of another state.

10. Requires a person who applies for a license to carry a concealed weapon to pay an application fee, which may not exceed either the cost to the sheriff of issuing the license or \$75, whichever is less.

11. Requires the sheriff to collect an \$8 background check fee from a person who applies for a license to carry a concealed weapon unless, in the case of a person applying for an emergency license, the sheriff waives the fee. The sheriff must forward all background check fees that he or she receives to the state treasurer.

12. Requires a person who applies for a license to carry a concealed weapon to pay a \$15 shooting range improvement fee, which is to be used by the sheriff to provide grants for the construction and improvement of shooting ranges.

13. Requires a person who applies for a license to carry a concealed weapon to pay a \$15 law enforcement excellence fund fee, which is to be used by the sheriff to improve law enforcement services in his or her county.

14. Grants immunity from liability to DOJ and its employees, sheriffs and their employees, and persons providing firearm training or safety classes for conduct undertaken in good faith under the ~~substitute amendment~~ bill

15. Treats a license or permit issued by another state in the same manner as a license issued under this ~~substitute amendment~~ bill

each circuit court, through its computer system, or the clerk of court or the register in probate if the court's computer system cannot do so

businesses or nonprofit organizations that permit persons to carry concealed weapons; and employers that permit their employees to carry concealed weapons

various other court and county employees;

if the state required the person to undergo training and submit to a background check as a condition of licensure

16. Prohibit a licensee or out of state licensee from carrying a concealed weapon if he or she has an alcohol consumption above 0.08 or is under the influence of alcohol, a controlled substance, or another drug to the extent of impairing his or her ability to handle the weapon.

2003 - 2004 Legislature

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INS ANALYSIS CONT

The substitute amendment ^{bill} also establishes ^{new} the following penalties for offenses relating to licenses to carry a concealed weapon. First, a person who fails to carry his or her license document or who fails to display it upon the request of a law enforcement officer while the person is carrying a concealed weapon may be required to forfeit \$25. Second, a person who is licensed to carry a concealed weapon and who carries a concealed weapon in a place where the license does not authorize him or her to do so may be fined not more than \$1,000 or imprisoned for not more than 90 days or both. ~~Third~~, a person who does any of the following ^{shall} be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months: 1) intentionally makes a false statement in an application for a license; 2) intentionally fails to report being charged under federal law or the law of another state with any crime or any drunk driving offense within ten days after being charged; or 3) intentionally fails to relinquish a license document to a sheriff after the license has been revoked.

and changes certain others

INS X-7

INS X-8

INS X-6

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

1 SECTION 1. 23.33 (3) (e) of the statutes is amended to read:

2 23.33 (3) (e) With any firearm in his or her possession unless it is unloaded and
3 enclosed in a carrying case, ~~or. This paragraph does not apply to the possession of~~
4 a handgun, as defined in s. 175.50 (1) (bm), by a person who holds a valid license to
5 carry a concealed weapon issued under s. 175.50 or by an out-of-state licensee, as
6 defined in s. 175.50 (1) (g).

7 (em) With any bow unless it is unstrung or enclosed in a carrying case.

8 SECTION 2. 29.089 (2) of the statutes is amended to read:

9 29.089 (2) Except as provided in sub. (3), no person may have in his or her
10 possession or under his or her control a firearm on land located in state parks or state
11 fish hatcheries unless the firearm is unloaded and enclosed within a carrying case.
12 This subsection does not apply if the firearm is a handgun, as defined in s. 175.50 (1)
13 (bm), and the person holds a valid license to carry a concealed weapon issued under
14 s. 175.50 or an out-of-state licensee, as defined in s. 175.50 (1) (g).

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2003 ASSEMBLY BILL 444

1
2
3

~~AN ACT to renumber and amend 941.23; and to create 941.23 (1) and 941.23
(2) of the statutes; relating to: carrying or going armed with a concealed
weapon.~~

Analysis by the Legislative Reference Bureau

~~Under current law, no person other than a peace officer may go armed with a concealed and dangerous weapon. The "going armed with" language applies to, among others, cases in which a person is carrying a concealed weapon but has not gone and is not going anywhere and cases in which a weapon is readily accessible to — but not physically carried by — a person in a car. A person who violates the prohibition on going armed with a concealed and dangerous weapon may be fined not more than \$10,000 or imprisoned for not more than nine months or both. But under *State v. Hamdan*, 2003 WI 113, __ Wis. 2d __, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when:~~

~~1) the person's interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. The *Hamdan* court also indicated that the constitutional right to keep and bear arms for security must permit a person to carry a concealed weapon under certain circumstances in his or her own home.~~

~~This substitute amendment permits a person to go armed with a concealed and dangerous weapon in his or her own home or place of business if: 1) the person's~~

INS
Z-1

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3596/ins ch

the following documents adopted by the Senate on that date:

INSERT AA to Ins Analysis

Engrossment information:

The text of Engrossed 2003 Senate Bill 214, as ~~offered to a third reading on~~ ^{passed by the senate} October 23, 2003, consists of ~~Senate Substitute Amendment 2, as adopted in the senate on that date,~~ ^{as affected by the following Senate Amendments adopted in the Senate on that date:} Senate Amendments 1 (as affected by chief clerk's correction), 2, 4, 22, and 48 ~~and Senate Amendment 1 to Senate Amendment 1.~~ ^{plain}

Senate Amendments

~~and~~ ^{Senate Amendment} (as affected by chief clerk's correction)

Content of Engrossed 2003 Senate Bill 214:

(end of Insert A)

Insert A-1

~~NO~~ a building used for religious purposes, for child care, or by a domestic violence services program (unless the owner or authorized representative permits a person to carry a concealed weapon); ^{there} a hospital (unless the hospital permits a person to carry a concealed weapon); a building located on a university campus; a kindergarten facility; a building owned by the state or a subdivision of the state if the building provides electronic screening and locked storage for weapons; ~~NO~~

In addition,

Insert A-2

~~NO~~ The bill ~~also~~ ^{business or} permits a business owner or person in his or her own home to prohibit a licensee or ~~out-of-state licensee~~ from carrying a concealed weapon into ~~his~~ ^{the} or her home or business. ^{INS X-2} In addition, a private employer may prohibit an employee from carrying a concealed weapon in the course of the employee's employment unless the employee is in his or her own vehicle, ^{Moreover} and, with notice, a health care facility may prohibit a licensee or out-of-state licensee from carrying a concealed weapon in the facility.

Insert A-3

~~NO~~ The background check includes ~~a check to see if the applicant has been civilly committed for drug dependency, has been involuntarily committed to a county department for alcohol dependency, has been found by a court to be substantially incapable of managing his or her property or caring for himself or herself by reason of infirmities of aging, developmental disabilities, or other like incapacities, or has been the subject of a protective placement order as a minor within the last five years.~~ ^{a determining}

INS X-3

1 **analysis INSERT x-1**

2 ~~NO~~ Moreover, no person may operate or go armed with a firearm while under the
3 influence of alcohol, a controlled substance, or any other intoxicant.

4 **analysis INSERT x-2**

5 ~~NO~~ A business owner, however, may only enforce this restriction against an
6 individual if he or she has posted a notice regarding the restriction in a prominent
7 place and has personally and orally notified the individual of the restriction.

8 **analysis INSERT x-3**

9 ~~NO~~ The bill also prohibits any person from carrying a concealed weapon while
10 having a blood alcohol concentration that exceeds 0.08. Moreover, under the bill, a
11 law enforcement officer who arrests a person for violating that prohibition or for
12 carrying a concealed weapon while under the influence of an intoxicant may require
13 the person to submit to a breath, blood, or urine test to detect the presence of alcohol,
14 controlled substances, or any other intoxicant. These implied consent provisions are
15 comparable to current law provisions regarding implied consent given by a person
16 operating an all-terrain vehicle, a motorboat, or a snowmobile.

17 **analysis INSERT x-4**

18 ~~NO~~ a court (in a procedure described below) has authorized the sheriff not to issue
19 the license or unless

20 **analysis INSERT x-5**

21 ~~NO~~ If the sheriff determines, or learns through the background check, that an
22 applicant for a license is ineligible under one of these requirements, the sheriff must
23 deny the person's application. Otherwise, the sheriff must issue the person a license



1 within 30 days of receiving the completed application, but with one exception. If an
 2 applicant committed a misdemeanor crime of violence that, because of the passage
 3 of time, no longer disqualifies him or her [✓] from obtaining a license ^{and} ~~but~~ the sheriff
 4 believes that the person would pose a substantial risk to others if he or she were
 5 granted a license, the sheriff may petition the circuit court to enter an order barring
 6 the person from receiving a license. The court may enter the order only if it
 7 determines, by clear and convincing evidence, [✓] that the person would pose a
 8 substantial risk to others if he or she were granted a license.

analysis INSERT x-6

9
 10 ^(N) other than a home or business where a resident or business owner has imposed
 11 ^(H) his or her own restriction on carrying a concealed weapon ^(S)

analysis INSERT x-7

does any of the following:

12
 13 ^(R) Third, the bill establishes the same penalties for a person who carries a
 14 concealed weapon and ⁽¹⁾ has a blood alcohol concentration that exceeds 0.08 [✓] or is
 15 under the influence of an intoxicant while doing so; or 2) refuses to submit to a breath,
 16 blood, or urine test. [✓] At the same time, the bill exempts a licensee [✓] who is carrying a
 17 concealed handgun from the prohibition in current law against going armed with a
 18 firearm while under the influence of an intoxicant, a conviction for which would
 19 otherwise result in: 1) the person being subject, as a Class A misdemeanor, to a
 20 maximum fine of \$10,000 or a maximum term of imprisonment of ^{nine} ~~9~~ months or both;
 21 and 2) the person being ineligible for a license. Fourth, under current law, possession
 22 of a firearm in a school zone is a Class I [✓] felony (punishable by a maximum fine of
 23 \$10,000 or a maximum term of imprisonment of three and one-half [✓] years or both),
 24 while possessing other types of dangerous weapons on school grounds is a Class A
 25 misdemeanor or, for a repeat offender, a Class I felony. A conviction under either of



1 these provisions would also make a person ineligible for a license. This bill exempts
 2 licensees from these penalties. Instead, licensees who unlawfully carry handguns
 3 in a school zone or who carry electric weapons, tear gas guns, knives, or billy clubs
 4 on school grounds are subject to a maximum fine of \$1,000 or a maximum term of
 5 imprisonment of 90 days or both. Fifth, ^{NO} ~~4~~

6 **analysis INSERT x-8**

7 ⁴ Finally, this bill makes certain changes in the law relating to background
 8 checks for handgun purchasers. Under current law, when a person seeks to purchase
 9 a handgun from a licensed handgun dealer, the dealer must ask DOJ to conduct a
 10 background check on the person. In conducting the background check, DOJ searches
 11 ~~department~~ ^{DOJ} records to determine whether the person is ineligible to possess a
 12 firearm under state law, but it does not attempt to determine whether federal law
 13 bars the person from possessing a firearm based on criteria (such as those relating
 14 to certain mental health proceedings) not covered by state law. This bill requires
 15 DOJ, when conducting a background check on a prospective handgun purchaser, to
 16 determine whether the person has been the subject of a court order or finding in a
 17 Wisconsin[✓] court that would render the person ineligible to possess a firearm under
 18 federal law. Specifically, DOJ must determine if: 1) the person was the subject of a
 19 court order committing the person for treatment in an inpatient mental health
 20 facility or a finding by a court that the person is a danger to himself or herself or
 21 others or lacks the mental capacity to contract or manage his or her own affairs; 2)
 22 the proceeding in which the order was entered or the finding was made occurred in
 23 a proceeding that was not commenced by the person; and 3) the order or finding was
 24 based on the person having markedly subnormal intelligence or the person's mental
 25 illness, incompetency, condition, or disease. [✓] If DOJ determines that the prospective



- 1 purchaser was the subject of such an order or determination, the dealer may not sell
- 2 the person a handgun.