

2005 Assembly Bill 26

Date of enactment: **April 8, 2006**
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2005 WISCONSIN ACT 282

AN ACT *to renumber and amend* 23.62 (2); *to amend* 23.54 (3) (k), 23.55 (2) (c) and 973.05 (2m); and *to create* 29.03, 29.972, 29.99, 814.75 (27), 814.76 (20) and 814.77 (16) of the statutes; **relating to:** entering into the wildlife violator compact.

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

SECTION 1. 23.54 (3) (k) of the statutes is amended to read:

23.54 (3) (k) Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or an arrest warrant and, if the violation is of ch. 29, the person may be subject to suspension of all hunting, fishing, and trapping approvals under s. 29.972.

SECTION 2. 23.55 (2) (c) of the statutes is amended to read:

23.55 (2) (c) A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the complaint, or the court may issue a warrant for the defendant's arrest and, if the violation is of ch. 29, the person may be subject to suspension of all hunting, fishing, and trapping approvals under s. 29.972.

SECTION 3. 23.62 (2) of the statutes is renumbered 23.62 (2) (a) and amended to read:

23.62 (2) (a) ~~A~~ If the defendant is a resident of this state, a law enforcement officer may serve a citation anywhere in the state by delivering a copy to the defendant personally or it shall be served by leaving a copy at the defendant's usual place of abode

~~with a person of discretion residing therein following the procedures used for the service of a summons under s. 801.11 (1) (a) or (b) 1. or 1m. or (2) or by mailing a copy to the defendant's last-known address. It shall be issued or served by~~

(b) If the defendant is not a resident of the state, a law enforcement officer may serve a citation by delivering a copy to the defendant personally or by mailing a copy to the defendant's last-known address.

SECTION 5. 29.03 of the statutes is created to read:
29.03 Wildlife violator compact. (1) ARTICLE I — FINDINGS, DECLARATION OF POLICY, AND PURPOSE. (a) The participating states find all of the following:

1. Wildlife resources are managed by the respective states for the benefit of all residents and visitors.

2. The protection of wildlife resources of a state is materially affected by the degree of compliance with state laws, regulations, ordinances, resolutions, and administrative rules relating to the management of those resources.

3. The preservation, protection, management, and restoration of wildlife resources contribute immeasurably to the aesthetic, recreational, and economic aspects of those natural resources.

4. Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife resource preservation,

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

protection, management, and restoration laws, regulations, ordinances, resolutions, and administrative rules of the participating states as a condition precedent to the continuance or issuance of any approval to hunt, fish, trap, or possess wildlife.

5. Violation of wildlife resource laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

6. The mobility of many violators necessitates the maintenance of channels of communication among the various states.

7. Usually, if a person is cited for a wildlife violation in a state other than the person's home state, one or more of the following occur:

a. The violator is required to post collateral or a bond to secure appearance for a trial at a later date.

b. The violator is taken into custody until the collateral or bond is posted.

c. The violator is taken directly to court for an immediate appearance.

8. The purpose of the enforcement practices described in subd. 7. is to ensure compliance with the terms of a wildlife citation by the violator who, if permitted to continue on his or her way after receiving the citation, could return to his or her home state and disregard the terms of the citation.

9. Usually, a person receiving a wildlife citation in his or her home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his or her way after agreeing or being instructed to comply with the terms of the citation.

10. The enforcement practices described in subd. 7. may cause unnecessary inconvenience and hardship for the violator who is unable at the time to post collateral, furnish a bond, stand trial, or pay a penalty, and thus is compelled to remain in custody until some alternative arrangement is made.

11. The enforcement practices described in subd. 7. consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to do all of the following:

1. Promote compliance with the laws, regulations, ordinances, resolutions, and administrative rules relating to management of wildlife resources in their respective states.

2. Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat the suspension as if it had occurred in the home state.

3. Allow a violator, except as provided in sub. (3) (b), to accept a wildlife citation and, without delay, proceed on his or her way, whether or not a resident of the state in which the citation was issued, if the violator's home state is party to this compact.

4. Report to the appropriate participating state, as provided in the compact manual, any conviction

recorded against a violator whose home state was not the issuing state.

5. Allow the home state to recognize and treat a conviction recorded against a resident, which occurred in a participating state other than the home state, as though the conviction had occurred in the home state.

6. Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

7. Maximize effective use of law enforcement personnel and information.

8. Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to do all of the following:

1. Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in par. (b) in a uniform and orderly manner.

2. Provide for the fair and impartial treatment of violators in all participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

(2) ARTICLE II — DEFINITIONS. As used in this compact, unless the context requires otherwise:

(a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment or other official document that a wildlife officer or other peace officer issues to a person for a wildlife violation that contains an order requiring the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with a citation issued by a wildlife officer or other peace officer for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal or through the payment of fines, costs, and surcharges, if any.

(d) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife that is prohibited by state law, regulation, ordinance, resolution, or administrative rule. "Conviction" shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed the offense, the payment of a penalty assessment or surcharge, a plea of no contest, and the imposition of a deferred or suspended sentence by a court.

(e) "Court" means a court of law, including municipal court.

(f) "Home state" means the state of primary residence of a violator.

(g) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(h) "License" means any approval, license, permit, or other public document that conveys to a person the privilege of pursuing, possessing, or taking any wildlife regulated by law, regulation, ordinance, resolution, or administrative rule of a participating state.

(i) "Licensing authority" means the department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife. In this state, the licensing authority is the department.

(j) "Participating state" means any state that enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement a person makes at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(L) "State" means any state, territory, or possession of the United States, and includes the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and all other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Violator" means a person who commits a wildlife violation.

(p) "Wildlife" means all species of wild animals that are protected or otherwise regulated by law, regulation, ordinance, resolution, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on the law of the participating state.

(q) "Wildlife law" means any law, regulation, ordinance, resolution, or administrative rule developed and enacted for the management and use of wildlife resources.

(r) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(s) "Wildlife violation" means any cited violation of a law, regulation, ordinance, resolution, or administrative rule developed and enacted for the management and use of wildlife resources.

(3) ARTICLE III — PROCEDURES FOR ISSUING STATE. (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any violator whose primary residence is in a participating state in the same manner as though the violator were a resident of the issuing state and shall not require the violator to post collateral to secure appearance, subject to par. (b), if the officer receives the recognizance of the violator that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable if both of the following apply:

1. Personal recognizance is not prohibited by local law or the compact manual.

2. The violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a violator to comply with the terms of a citation issued for a wildlife violation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or non-compliance under par. (c), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

(4) ARTICLE IV — PROCEDURE FOR HOME STATE. (a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards shall be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction in its records and shall treat the conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

(5) ARTICLE V — RECIPROCAL RECOGNITION OF SUSPENSION. (a) Each participating state shall recognize the suspension of license privileges of any violator by any participating state as though the violation resulting in the suspension had occurred in its own state and could have been the basis for suspension of license privileges in its own state.

(b) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

(6) ARTICLE VI — APPLICABILITY OF OTHER LAWS. Except as expressly required by provisions of this compact, nothing in this compact shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other

cooperative arrangement between a participating state and a nonparticipating state concerning wildlife resource law enforcement.

(7) ARTICLE VII — COMPACT ADMINISTRATOR PROCEDURES. (a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states. The head of the licensing authority of each participating state shall appoint the compact administrator. The compact administrator shall serve and be subject to removal in accordance with the laws of the state that he or she represents. A compact administrator may provide an alternate for the discharge of his or her duties and functions as a board member. An alternate may not serve unless written notification of his or her identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor of the action. Board action shall occur only at a meeting at which a majority of the participating states are represented.

(c) The board shall elect annually from its membership a chairperson and vice chairperson.

(d) The board shall adopt bylaws consistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of those donations and grants.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted by board action shall be contained in a compact manual.

(8) ARTICLE VIII — ENTRY INTO COMPACT AND WITHDRAWAL. (a) This compact shall become effective when it is adopted in a substantially similar form by 2 or more states.

(b) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board. The resolution shall be substantially in the form and content as provided in the compact manual and shall include all of the following:

1. A citation of the authority from which the state is empowered to become a party to this compact.

2. An agreement of compliance with the terms and provisions of this compact.

3. An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(c) The effective date of entry shall be specified by the applying state but shall not be less than 60 days after notice has been given by one of the following:

1. The chairperson of the board of the compact administrators.

2. The secretary of the board to each participating state that the resolution from the applying state has been received.

(d) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until 90 days after the notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

(9) ARTICLE IX — AMENDMENTS TO THE COMPACT. (a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and shall be initiated by one or more participating states.

(b) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

(c) A participating state shall respond to the compact chairperson within 120 days after receipt of a proposed amendment. Amendments proposed to change local law by the compact administrators shall be reviewed and approved by the legislature.

SECTION 6. 29.972 of the statutes is created to read:

29.972 Revocation; failure to comply. (1) The department shall deny an application to issue or renew, or suspend if already issued, all hunting, fishing, or trapping approvals issued to a person under this chapter if the person who violates this chapter does any of the following:

(a) Fails to respond to a summons under s. 23.66 (3) or 23.67 (4), or a warrant or summons under s. 968.04.

(b) Fails to appear on the court date set under s. 23.72 or 23.75 unless the person makes a deposit under s. 23.66 or makes a deposit and stipulation under s. 23.67.

(c) Fails to appear before the court and is subject to a bench warrant under s. 968.09.

(2) (a) The requirement to deny or suspend an approval under sub. (1) does not apply if the court revokes any or all of the person's hunting, fishing, or trapping approvals under s. 23.79 (4) or 23.795 (2).

(b) The requirement to deny or suspend an approval under sub. (1) remains in effect until either of the following occurs:

1. The person resolves the matter under sub. (1) that resulted in the denial or suspension.

2. The court revokes or suspends any or all of the person's hunting, fishing, or trapping approvals under s. 29.971.

(3) The department shall establish procedures for the denial or suspension of approvals under subs. (1) and (2), including all of the following:

(a) The exchange of information among the department, the district attorneys, and the clerks of court.

(b) Notice to the person who is subject to the denial or suspension.

(c) The opportunity for an administrative appeal to the department which shall be limited to the issue of whether the action listed in sub. (1) (a) to (c) is sufficient to require the department to deny an application to issue or renew, or to suspend the approvals.

SECTION 7g. 29.99 of the statutes is created to read:

29.99 Wildlife violator compact surcharge. (1) If a court imposes a fine or forfeiture for a violation of a provision of this chapter or an order issued under this chapter, the court shall impose a wildlife violator compact surcharge under ch. 814 equal to \$5 for the violation.

(2) If a fine or forfeiture is suspended in whole or in part, the wildlife violator compact surcharge shall be reduced in proportion to the suspension unless the court directs otherwise.

(3) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the wildlife violator compact surcharge under this section. If the deposit is forfeited, the amount of the wildlife violator compact surcharge shall be transmitted to the secretary of administration under par. (d). If the deposit is returned, the wildlife violator compact surcharge shall also be returned.

(4) The clerk of the court shall collect and transmit to the county treasurer the wildlife violator compact surcharge and other amounts required under s. 59.40 (2) (m). The county treasurer shall then make payment to the secretary of administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall deposit the amount of the wildlife violator compact surcharge in the conservation fund.

SECTION 7m. 814.75 (27) of the statutes is created to read:

814.75 (27) The wildlife violator compact surcharge under s. 29.99.

SECTION 8g. 814.76 (20) of the statutes is created to read:

814.76 (20) The wildlife violator compact surcharge under s. 29.99.

SECTION 8m. 814.77 (16) of the statutes is created to read:

814.77 (16) The wildlife violator compact surcharge under s. 29.99.

SECTION 9g. 973.05 (2m) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

973.05 (2m) Payments under this section shall be applied first to payment of the penalty surcharge until paid in full, shall then be applied to the payment of the jail surcharge until paid in full, shall then be applied to the payment of part A of the crime victim and witness assistance surcharge until paid in full, shall then be applied to part B of the crime victim and witness assistance surcharge until paid in full, shall then be applied to the crime laboratories and drug law enforcement surcharge until paid in full, shall then be applied to the deoxyribonucleic acid analysis surcharge until paid in full, shall then be applied to the drug abuse program improvement surcharge until paid in full, shall then be applied to the drug offender diversion surcharge until paid in full, shall then be applied to payment of the driver improvement surcharge until paid in full, shall then be applied to the truck driver education surcharge if applicable until paid in full, shall then be applied to payment of the domestic abuse surcharge until paid in full, shall then be applied to payment of the consumer protection surcharge until paid in full, shall then be applied to payment of the natural resources surcharge if applicable until paid in full, shall then be applied to payment of the natural resources restitution surcharge until paid in full, shall then be applied to the payment of the environmental surcharge if applicable until paid in full, shall then be applied to the payment of the wild animal protection surcharge if applicable until paid in full, shall then be applied to the payment of the wildlife violator compact surcharge if applicable until paid in full, shall then be applied to payment of the weapons surcharge until paid in full, shall then be applied to payment of the uninsured employer surcharge until paid in full, shall then be applied to payment of the enforcement surcharge under s. 253.06 (4) (c), if applicable, until paid in full, and shall then be applied to payment of the fine and the costs and fees imposed under ch. 814.