



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 26

**Assembly Substitute
Amendment 1 and Assembly
Amendments 1, 2, and 3**

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2005 ASSEMBLY BILL 26

Assembly Bill 26 creates the statutory language necessary for Wisconsin to enter into the wildlife violator compact. The wildlife violator compact creates a multi-state approach to suspension of the hunting and fishing privileges of a wildlife law violator. Approximately 20 states have adopted the compact. Under the compact, the suspension of hunting and fishing privileges in one state results in the suspension of those privileges in all of the states that participate in the compact. If a resident of one of the participating states violates fish and game laws in Wisconsin, and the violator has his or her hunting and fishing privileges in Wisconsin suspended either for conviction of a violation or for failure to comply with a citation or summons and complaint, that violator will also have his or her licenses suspended or be denied a license in his or her home state, as well as in all the other participating states.

If a violator in Wisconsin is not the resident of a state that participates in the compact, all current procedures (in most cases, citations for residents, summons and complaint for nonresidents) will continue to apply. If the violator in Wisconsin is the resident of a participating state, the warden will issue a citation in the same manner as to a Wisconsin resident. The district attorney issues a summons and complaint in any case where the penalty for a wildlife law violation is a crime. The compact prohibits any requirement for the nonresident violator to post a bond to secure an appearance before the court, so long as the nonresident violator presents the warden with adequate proof of identification. If the nonresident violator is either convicted of the violation or fails to pay the forfeiture or appear on the court date in the citation summons, the court or the district attorney informs the Department of Natural Resources (DNR), and the DNR sends this information to the violator's home state.

When the violator's home state receives the notice from the DNR, the violator's home state notifies the violator and suspends the violator's home state hunting and fishing privileges until the Wisconsin DNR sends the home state a notice of compliance. If the nonresident violator is convicted of a fish and game law violation in Wisconsin, the home state is required by the compact to treat the conviction as if it occurred in the home state for suspension purposes. (In other words, even a

conviction that does not result in a suspension in Wisconsin could result in a suspension in the violator's home state.) Each state in the compact notifies all other states in the compact when a suspension occurs, and each participating state recognizes the suspension of license privileges by any participating state as though the violation had occurred in that state and could have been the basis for suspension of license privileges in that state.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 makes no changes to the text of the wildlife violator compact, but adds several provisions to current Wisconsin fish and game enforcement procedures so that the Wisconsin procedures mesh with the procedures in the wildlife violator compact.

- The form for a citation and for a summons and complaint, which is issued to a person who violates fish and game regulations, is modified to include a notice that the person may be subject to suspension of all hunting and fishing approvals, if the person fails to appear in court at the time set in the citation or the summons and complaint.
- A new procedure is created allowing a citation to be issued to a nonresident by mailing it to the nonresident at the defendant's last-known address. (Citations can currently be mailed to residents.)
- A new procedure is created that requires DNR to deny an application to issue or renew, or suspend if already issued, all hunting and fishing approvals issued to a person who: (1) violates fish and game regulations and fails to respond to a summons; (2) fails to appear on the court date without making a deposit and stipulating to a plea of no contest; or (3) fails to appear before the court and is subject to a bench warrant. In practice, judges often suspend the hunting and fishing privileges of a person who fails to respond to a summons or fails to appear on the court date. However, the judge is not required to do this, and the new procedure in the substitute amendment assures that suspension occurs in all of these cases. Suspension by the DNR remains in effect until the person resolves the matter with the court. This new procedure applies whether or not the defendant is the resident of a state that participates in the compact.
- The substitute amendment requires the DNR to develop procedures for communications between the DNR, the district attorneys, and the clerks of court, and to provide notice to the person who is subject to denial or suspension.
- The substitute amendment provides an opportunity for an administrative appeal to the DNR which is limited to the issue of whether the person's failure to respond to the summons or to appear in court is sufficient to require the DNR to refuse to issue or renew, or to suspend the approvals.

Assembly Amendment 1 to Assembly Substitute Amendment 1

Assembly Amendment 1 corrects a drafting error in the language added to the bill by Assembly Substitute Amendment 1.

Assembly Amendment 2 to Assembly Substitute Amendment 1

Assembly Amendment 2 adds to the bill a wildlife violator compact surcharge, which consists of a \$5 penalty which is added to the penalty (fine or forfeiture), for any violation of hunting, fishing, or trapping statutes or orders. The funds received from the wildlife violator compact surcharge are deposited in the Conservation Fund.

Assembly Amendment 3 to Assembly Substitute Amendment 1

Assembly Amendment 3 modifies the current provisions of s. 23.62 (2) regarding service of a citation on a Wisconsin resident. The current statute has a procedure that differs from the provisions regarding service of process under s. 801.11, Stats. The amendment eliminates the current procedures for service of a citation on a Wisconsin resident and replaces them with the procedures for service of a summons under s. 801.11.

The amendment also clarifies the new procedure created by the substitute amendment for service of a citation on a nonresident defendant. Under the amendment, a law enforcement officer may serve the citation by delivering it to the defendant personally or mailing it to the defendant's last-known address.

Legislative History

Assembly Amendment 1 to Assembly Substitute Amendment 1 was offered by Representative Gunderson and adopted by the Assembly Committee on Natural Resources by a vote of Ayes, 11; Noes, 0; and Absent 4. Assembly Substitute Amendment 1 was offered by Representative Gunderson and adopted by the Assembly Committee on Natural Resources by a vote of Ayes, 11; Noes, 0; and Absent, 4. The Assembly Committee on Natural Resources recommended passage of Assembly Bill 26, as amended, by a vote of Ayes, 11; Noes, 0; and Absent, 4, on July 20, 2005.

The Joint Committee on Finance introduced Assembly Amendments 2 and 3. The Joint Committee on Finance, on November 30, 2005, recommended adoption of Assembly Amendment 1 to Assembly Substitute Amendment 1 by a vote of Ayes, 15; Noes, 0; adoption of Assembly Amendment 2 by a vote of Ayes, 14; Noes, 1; and adoption of Assembly Amendment 3 by a vote of Ayes, 15; Noes, 0. The Joint Committee on Finance recommended adoption of Assembly Substitute Amendment 1 and passage of the bill as amended each by a vote of Ayes, 15; Noes, 0.

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