

**2007 DRAFTING REQUEST**

**Bill**

Received: **09/27/2006**

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Griffin**

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

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - miscellaneous**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Griffin, BB0123 -

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**Topic:**

Automated natural resources violations citation form

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	mglass 10/12/2006	kfollett 10/13/2006	rschluet 10/16/2006	_____	lparisi 10/16/2006		

FE Sent For:

<END>

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Subject: **Nat. Res. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **Eric.Ebersberger@dnr.state.wi.us**

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<END>

## 2007 DRAFTING REQUEST

### Bill

Received: 09/27/2006

Received By: mglass

Wanted: As time permits

Identical to LRB:

For: Natural Resources 267 7418

By/Representing: Lance Potter

This file may be shown to any legislator: NO

Drafter: mglass

May Contact:

Addl. Drafters:

Subject: Nat. Res. - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Eric.Ebersberger@dnr.state.wi.us

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Automated natural resources violations citation form


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### Instructions:

See Attached

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/?	mglass	11/kjf 10/13	 10/16/06	_____	_____	_____	_____

FE Sent For:

<END>

Automated format → by computer  
 printed for Δ to court

Enforcement and Science Division Issues

2007-09 Statutory Language Proposals

<b>Division:</b>	Enforcement and Science
<b>Bureau:</b>	Law Enforcement
<b>Issue/Topic:</b>	Citation Automated Format
<b>Proposed Change:</b>	<p><i>23.51(1m) is amended to read:</i>  <b>(1m)</b> "Citation" means a pleading of essential facts and applicable law coupled with a demand for judgment, which notifies the person cited of a violation of a statute or rule enumerated in 23.50(1) or of a violation of a local ordinance, and requests the person to appear in court. Part of the citation is a complaint. <u>The citation may be on a form or in an automated format.</u></p> <p><i>s.23.54 Citation Form is amended to read:</i>  <b>23.54 Citation form and Automated Format</b></p> <p><b>23.54(2)</b> It must appear on the face of the citation that there is probable cause to believe that a violation has been committed and that the defendant has committed that violation.</p> <p>23.54(3)  <b>(3)</b> The citation form and the automated format shall provide for the following:</p>
<b>Explanatory Note:</b>	<p>The proposal allows for a form in an automated format as well as the current paper form. Also the proposal removes the statement requirement in a NR Citation in order to allow the Traffic Citation System (TraCS) to better process NR Citations. The elimination of this statement will save development money. This language change is related to the ALIS database upgrades budget request.</p>
<b>Desired Effective Date:</b>	Effective Date of the 2007-09 Budget.
<b>Contact Person:</b>	Lance Potter, 267-7418

AT 6/6/08  
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968.085(2)  
 citation for  
 misdemeanor



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0392/20  
MGG: kjf

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D-Note

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10/11

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Agency budget draft

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

NATURAL RESOURCES

OTHER NATURAL RESOURCES

Current law provides a specific procedure for enforcement proceedings for violations of laws that relate to hunting, fishing, operating snowmobiles and all-terrain vehicles, and other conservation and environmental laws administered by the Department of Natural Resources (DNR laws). This procedure applies only to DNR laws that are punishable by payment of a civil forfeiture and not by payment of a fine or by imprisonment. Under the procedure, a proceeding may be started by an officer issuing a written citation or by a district attorney beginning a legal proceeding in court by issuing a complaint and summons. This bill authorizes officers enforcing these laws to use an electronic format for filling out and issuing the citations.

Current statutory law requires that specific information regarding probable cause for issuing the citation or complaint must be stated in the citation or complaint. The Wisconsin Supreme Court has ruled that a statement of probable cause must contain the reason for charging the particular person receiving the citation or complaint and a description of the supporting evidence or witness statement (supporting statements), as well as the name of the person charged, the law violated, and the date and time of the violation (basic statements). See *State v. White*, 97 Wis. 2d 193 (1980). This bill eliminates this probable cause requirement for citations but not for complaints. By eliminating that probable cause be stated in the citation, the citation

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no longer must contain the supporting statements. The requirement that a citation contain the basic statements will continue because they are statutorily required under current law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 23.51 (1m) of the statutes is amended to read:

2           23.51 (1m) "Citation" means a pleading of essential facts and applicable law

3           ~~coupled with a demand for judgment, which notifies~~ a complaint and includes a

4           notification to the person cited of a violation of a statute or rule enumerated in s.

5           23.50 (1) or of a violation of a local ordinance, and requests the person to appear in

6           court. ~~Part of the citation is a complaint.~~

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1985 a. 36; 1985 a. 332 s. 251 (7); 1987 a. 27; 1989 a. 107; 1991 a. 39; 1993 a. 112; 1995 a. 227; 1997 a. 27, 248; 1999 a. 9; 2001 a. 56; 2003 a. 139; 2005 a. 253.

7           **SECTION 2.** 23.54 (1) of the statutes is amended to read:

8           23.54 (1) A citation may be prepared on a paper form or in an electronic format.

9           The defendant shall receive a copy of the citation. The citation shall contain ~~a~~

10          ~~complaint,~~ an area to record the case history and a report of court action on the case.

History: 1975 c. 365; 1977 c. 29; 1979 c. 34; 1981 c. 31; 1985 a. 36; 1987 a. 27, 399; 1991 a. 39; 1997 a. 27; 2003 a. 139; 2005 a. 282.

11          **SECTION 3.** 23.54 (2) of the statutes is repealed.

12          **SECTION 4.** 23.62 (1) (a) of the statutes is amended to read:

13          23.62 (1) (a) Issue a citation to the defendant in the ~~form~~ manner specified in

14          s. 23.54, a paper copy or electronic version of which shall be filed with the clerk of

15          courts in the county where the violation was committed or with the office of the

16          municipal judge in the case of an ordinance violation;

History: 1975 c. 365; 1979 c. 175; 1987 a. 200 s. 4; 1993 a. 156, 349; 1995 a. 27, 216; 2005 a. 282.

17          **SECTION 5.** 23.62 (2) (a) of the statutes is amended to read:

1           23.62 (2) (a) If the defendant is a resident of this state, a law enforcement officer  
2           may serve a citation anywhere in the state by following the procedures used for the  
3           service of a summons under s. 801.11 (1) (a) or (b) 1. or 1m. or (2) or by mailing a paper  
4           copy to the defendant's last-known address.

History: 1975 c. 365; 1979 c. 175; 1987 a. 200 s. 4; 1993 a. 156, 349; 1995 a. 27, 216; 2005 a. 282.

5           **SECTION 6.** 23.62 (2) (b) of the statutes is amended to read:

6           23.62 (2) (b) If the defendant is not a resident of the state, a law enforcement  
7           officer may serve a citation by delivering a paper copy to the defendant personally  
8           or by mailing a paper copy to the defendant's last-known address.

History: 1975 c. 365; 1979 c. 175; 1987 a. 200 s. 4; 1993 a. 156, 349; 1995 a. 27, 216; 2005 a. 282.

9           **SECTION 7.** 23.68 of the statutes is amended to read:

10           **23.68 Pleading.** The A citation ~~or complaint~~ issued pursuant to s. 23.62 or a  
11           complaint issued pursuant to <sup>S.</sup> 23.65 may serve as the initial pleading and,  
12           notwithstanding any other provisions of the statutes, shall be deemed adequate  
13           process to give the appropriate court jurisdiction over the person upon the filing of  
14           the citation or complaint with such court.

History: 1975 c. 365.

15           **SECTION 8.** 345.11 (1m) of the statutes is amended to read:

16           345.11 (1m) The uniform traffic citation or the citation ~~form~~ under s. 23.54  
17           shall be used for violations of ch. 350 relating to highway use or ordinances in  
18           conformity therewith when committed on the highway, but no points may be assessed  
19           against the driving record of the operator of a snowmobile. When the uniform traffic  
20           citation is used, the report of conviction shall be forwarded to the department. When  
21           the citation ~~form~~ under s. 23.54 is used, the procedure in ss. 23.50 to 23.85 applies.

History: 1971 c. 164 s. 81; 1971 c. 277; 1973 c. 218; 1975 c. 41; 1977 c. 29 ss. 1468, 1654 (7) (a), (c); 1977 c. 273; 1979 c. 34, 257; 1985 a. 29, 36, 145, 309; 1989 a. 31, 105, 170, 335; 1993 a. 436, 437; 1995 a. 227; 1997 a. 120; 1999 a. 31, 140; 2001 a. 27; 2003 a. 33.

22           **SECTION 9.** 345.11 (1r) of the statutes is amended to read:

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1           345.11 **(1r)** The uniform traffic citation or the citation ~~form~~ under s. 23.54 shall  
2 be used for violations of s. 23.33 relating to highway use or ordinances in conformity  
3 with that section if the violation is committed on a highway, but no points may be  
4 assessed against the driving record of the operator of an all-terrain vehicle. When  
5 the uniform traffic citation is used, the report of conviction shall be forwarded to the  
6 department. When the citation ~~form~~ under s. 23.54 is used, the procedure in ss. 23.50  
7 to 23.85 applies.

History: 1971 c. 164 s. 81; 1971 c. 277; 1973 c. 218; 1975 c. 41; 1977 c. 29 ss. 1468, 1654 (7) (a), (c); 1977 c. 273; 1979 c. 34, 257; 1985 a. 29, 36, 145, 309; 1989 a. 31, 105, 170, 335; 1993 a. 436, 437; 1995 a. 227; 1997 a. 120; 1999 a. 31, 140; 2001 a. 27; 2003 a. 33.

8           **SECTION 10.** 800.02 (2) (b) of the statutes is amended to read:

9           800.02 (2) (b) Except for parking violations, in traffic regulation actions in  
10 municipal court, the uniform traffic citation specified in s. 345.11 shall be used in lieu  
11 of the citation ~~form~~ specified in par. (a). In actions for violations of local ordinances  
12 enacted in accordance with s. 23.33 (11) (am) or 30.77, the citation ~~form~~ specified in  
13 s. 23.54 shall be used in lieu of the citation ~~form~~ specified in par. (a).

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266; Stats. 1979 s. 800.02; 1981 c. 317; 1983 a. 535; 1987 a. 27; 1987 a. 200 s. 4; 1987 a. 389; 1989 a. 170; 1991 a. 39, 40; 1993 a. 16, 112, 320, 437; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 139.

14           **SECTION 11.** 938.237 (1) (intro.) of the statutes is amended to read:

15           938.237 (1) ~~CITATION FORM CITATIONS.~~ (intro.) The A citation ~~forms~~ under s.  
16 23.54, 66.0113, 778.25, 778.26, or 800.02 may be used to commence an action for a  
17 violation of civil laws and ordinances in the court.

History: 1995 a. 77; 1999 a. 150 s. 672; 2001 a. 30 s. 108; 2003 a. 139; 2005 a. 344.

(END)

*O-Note*



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

LRB-0392/1dn  
MGG: kjf

Date

X

Regarding the repeal of s. 23.54 (2), the question has arisen as to whether the inclusion of a statement of the specifics of probable cause in a citation is constitutionally required. The procedures set forth in ss. 23.50 to 23.85 apply only to civil forfeiture violations and not to criminal violations. See definition of violation in s. 23.51 (8). In its decision in *State v. White*, 97 Wis. 2d 193 (1980), the Wisconsin Supreme Court held that such a statement was required if the uniform traffic citation form was being used for enforcement of criminal traffic violations. It appears, therefore, that such probable cause statements are not required for forfeiture violations. The White case is also helpful in setting forth what constitutes a statement of probable cause.

the

(th)

Note that a statement of probable cause will still be required for proceedings begun with a summons and complaint. See s. 23.55 (1).

I made some changes in the definition of citation. In reviewing this, note that the definition of citation (s. 23.51 (1m)) contains the same language as the definition of complaint (s. 23.51 (2)). I also made a couple of changes in ss. 23.54 (1) and 23.68 to make the citation procedure clearer.

I would ask that you share this draft with DNR attorney Mike Lutz for his review.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

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

LRB-0392/1dn  
MGG:kjf:rs

October 16, 2006

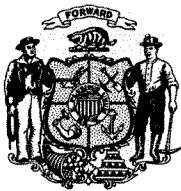
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Senior Legislative Attorney  
Phone: (608) 267-3215



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0392/1  
MGG:kjf.rs

DOA:.....Griffin, BB0123 - Automated natural resources violations citation form

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

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**OTHER NATURAL RESOURCES**

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15 (END)