State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1916/P1
CMH:...:sh

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** conservation wardens employed by the Great Lakes
2 Indian Fish and Wildlife Commission.

Analysis by the Legislative Reference Bureau

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft, developed by the joint legislative council's special committee on state-tribal relations, extends the application of a broad range of statutes related to law enforcement to conservation wardens employed by the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) and authorizes GLIFWC wardens (referred to in the draft as "commission wardens") to aid or assist a Wisconsin peace officer or to make an arrest for a violation of state law under specified circumstances.

Background

In the 1970s and 1980s, litigation in federal court sought to determine the extent of rights for the harvest of natural resources retained by the Chippewa Indian bands when the bands ceded territory to the United States in treaties in 1837 and 1842. In a series of orders, the court affirmed the bands' continuing rights to hunt, fish, and gather on off-reservation public lands and waters throughout the ceded territories in northern Wisconsin. Among other things, the court approved the Chippewa bands' proposal to adopt an off-reservation conservation code (off-reservation code) governing their members' exercise of those rights within the ceded territory but not on any Chippewa

reservation, and to form an intertribal agency to enforce that code. GLIFWC is the agency the Chippewa bands created for this purpose.

An incident in which a GLIFWC warden working off-reservation detained a non-Indian person for a state firearms violation and delivered the individual to the county sheriff called into question the authority of the warden to detain the individual, as well as the legality of other aspects of the warden's behavior, such as going armed in the uniform of a law enforcement officer in a vehicle with equipment such as lights and siren.

This case brought to attention that much of what GLIFWC wardens do is not contemplated under the statutes and that, in fact, the statutes could be read as prohibiting GLIFWC wardens from doing many things that the federal court authorized them to do. Similarly, many statutes that serve to protect the physical safety of law enforcement officers and others that serve to protect the interests of the public do not apply to GLIFWC wardens. These statutes *do* apply to conservation wardens employed by the department of natural resources.

The Draft

The draft is intended to accomplish two goals: first, to facilitate the work of GLIFWC and its wardens in enforcing the off-reservation code; and second, to enable GLIFWC wardens to assist state and local law enforcement agencies under certain circumstances.

FACILITATING THE WORK OF GLIFWC WARDENS

To facilitate the work of GLIFWC wardens, the draft applies many provisions of the criminal code and the conservation and motor vehicle statutes to them. In general, the draft does the following:

1. Applies statutes regarding the protection of officers or interference with law enforcement to all GLIFWC wardens. Examples of the statutes treated in this manner are: s. 940.20 (2), stats., battery to a law enforcement officer; s. 941.21, stats., disarming a peace officer; and s. 946.41, stats., resisting or obstructing an officer. The draft also applies a number of other, miscellaneous statutes to all GLIFWC wardens, such as the requirement that a peace officer provide first aid to a person in custody (s. 940.291, stats.), communicable diseases (ch. 252, stats.), and the exception for peace officers to the prohibition on shining animals (s. 29.314, stats.). The draft also applies to all GLIFWC wardens the exceptions enjoyed by peace officers to various aspects of the motor vehicle code, including exceptions to various rules of the road and various restrictions on vehicle equipment.

2. Applies most statutes regarding the possession or use of firearms and other weapons by peace officers to GLIFWC wardens who meet state certification standards. Examples of statutes treated in this manner are exceptions for peace officers to prohibitions against carrying concealed weapons (s. 941.23, stats.) and the use of pepper spray (s. 941.26, stats.). The draft does not apply statutes authorizing the possession or use of explosives or particularly dangerous weapons to any GLIFWC warden. Examples of statutes in this category are exceptions for peace officers to prohibitions against the possession or use of machine guns, short-barreled shotguns and rifles, explosives, and other weapons.

3. Authorizes GLIFWC and its wardens to use the transaction information for management of enforcement (TIME) system if GLIFWC agrees to contribute information in its possession to the department of justice (DOJ) for addition to the TIME system. The TIME system allows officers in the field to access information regarding criminal investigations, suspected criminals, and outstanding warrants, as well as drivers' license and vehicle registration information, using computers installed in their patrol vehicles.

4. Applies the statutes administered by the law enforcement standards board (LESB) to GLIFWC wardens who agree to accept the duties of law enforcement officers under the laws of this state, which makes a GLIFWC warden subject to the rules and certification procedures of the LESB, and which is a prerequisite for exercising the authority, as created by this draft, to make arrests for violations of state law and to render aid and assistance to state peace officers.

bill

5. Authorizes GLIFWC to receive from the department of transportation (DOT) monthly compilations of vehicle registration information, drivers' license and identification card photographs, and other identifying information in the same manner that sheriffs and chiefs of local police departments, among others, currently receive this information.

AUTHORITY TO ARREST AND ASSIST

The draft authorizes a GLIFWC warden to make an arrest for a violation of state law in the ceded territory if the warden is responding to either: (a) an emergency situation that poses a significant threat to life or of bodily harm; or (b) acts that the warden believes, on reasonable grounds, constitute a felony. The draft also authorizes a GLIFWC warden to render aid or assistance to a Wisconsin peace officer in the ceded territory in an emergency or at the request of the Wisconsin peace officer. A GLIFWC warden may take these actions only if all of the following conditions are met:

1. The warden is on duty and on official business.

2. The warden meets the training standards for state and local law enforcement officers and has agreed to accept the duties of law enforcement officers under the laws of this state.

3. GLIFWC has adopted and implemented written policies regarding making felony arrests under state law and rendering aid or assistance to state or local officers.

4. GLIFWC maintains liability insurance that does all of the following:

(a) Covers GLIFWC's liability up to a limit of not less than $2 million per occurrence for the acts and omissions of its wardens acting under this authority.

(b) Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to that limit.

The draft also authorizes GLIFWC wardens to engage in fresh pursuit in Wisconsin beyond the ceded territory under specified circumstances.

create a.r. blue

1 **SECTION 1.** 23.29 (23) of the statutes is amended to read:

2 23.29 **(23)** ENFORCEMENT. The department and its agents, the department of
3 justice, and peace officers, as defined under s. 939.22 (22), <u>but not including</u>
4 <u>commission wardens, as defined under s. 939.22 (5),</u> have jurisdiction on dedicated
5 state natural areas in the geographic jurisdiction to enforce articles of dedication and
6 restrictions authorized under sub. (21).

7 **SECTION 2.** 23.293 (19) of the statutes is amended to read:

create A.R. green

23.293 **(19)** ENFORCEMENT. The department and its agents, the department of justice, and peace officers, as defined under s. 939.22 (22), but not including commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated ice age trail areas.

NOTE: SECTIONS and exclude GLIFWC wardens from the list of entities having enforcement authority for purposes of dedicated state natural areas and Ice Age Trail areas.

SECTION 3. 23.33 (4) (c) 1. of the statutes is amended to read:

23.33 **(4)** (c) 1. Paragraphs (a) and (b) do not apply to the operator of an all–terrain vehicle owned by a municipality, state agency, or public utility, or by the Great Lakes Indian Fish and Wildlife Commission while the operator is engaged in an emergency or in the operation of an all–terrain vehicle directly related to the functions of the municipality, state agency, or public utility, or of the Great Lakes Indian Fish and Wildlife Commission if safety does not require strict adherence to these restrictions.

SECTION 4. 23.33 (12) (b) of the statutes is amended to read:

23.33 **(12)** (b) No operator of an all–terrain vehicle may refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in s. 939.22 (5).

NOTE: SECTIONS and authorize GLIFWC wardens to operate all–terrain vehicles (ATVs) on highways, under specified circumstances, and require other ATV operators to stop when signaled by a GLIFWC warden.

SECTION 5. 23.51 (3) of the statutes is amended to read:

23.51 **(3)** "Enforcing officer" means a peace officer as defined ~~by~~ in s. 939.22 (22), but not including a commission warden, as defined in s. 939.22 (5), or means a person who has authority to act pursuant to a specific statute.

NOTE: Excludes GLIFWC wardens from the definition of "enforcing officer" for purposes of forfeiture procedures for the enforcement of state conservation laws.

1 **SECTION 6.** 30.64 of the statutes is amended to read:

2 **30.64 Patrol boats. (1)** The operator of a patrol boat, including a commission
3 warden, as defined in s. 939.22 (5), when responding to an emergency call or when
4 in pursuit of an actual or suspected violator of the law, need not comply with this
5 subchapter or ordinances under s. 30.77 when a siren or emergency light is activated
6 or, if the patrol boat is equipped with a siren and an emergency light, when both the
7 siren and emergency light are activated, and if due regard is given to the safety of
8 other persons in the vicinity. If an emergency light is used, it shall be of a type and
9 design specified under 33 CFR 88.11 or 88.12.

10 **(2)** Upon the approach of a patrol boat, including a patrol boat operated by a
11 commission warden, as defined in s. 939.22 (5), giving an audio or visual signal, the
12 operator of a boat shall reduce the boat speed to slow-no-wake and yield the
13 right-of-way to the patrol boat until it has passed.

14 **(3)** No person operating a boat may refuse to stop after being requested or
15 signaled to do so by a law enforcement officer or a commission warden, as defined in
16 s. 939.22 (5).

NOTE: Authorizes GLIFWC wardens to operate patrol boats in excess of speed limits, under specified circumstances, and requires other boat operators to yield to GLIFWC patrol boats and to stop when signaled by a GLIFWC warden.

create A.R. yellow

17 **SECTION 7.** 165.83 (1) (e) of the statutes is renumbered 165.83 (1) (e) (intro.) and
18 amended to read:

19 165.83 **(1)** (e) (intro.) "Tribal law enforcement agency" means ~~an~~ any of the
20 following:

21 1. An agency of a tribe that is established for the purpose of preventing and
22 detecting crime on the reservation or trust lands of the tribe and enforcing the tribe's
23 laws or ordinances, that employs full time one or more persons who are granted law

enforcement and arrest powers under s. 165.92 (2) (a), and that was created by a tribe that agrees that its law enforcement agency will perform the duties required of the agency under this section and s. 165.84.

create AR orange

SECTION 8. 165.83 (1) (e) 2. of the statutes is created to read:

165.83 **(1)** (e) 2. The Great Lakes Indian Fish and Wildlife Commission, if the Great Lakes Indian Fish and Wildlife Commission agrees to perform the duties required under this section and s. 165.84.

use AR yellow use AR orange

NOTE: The definition change made by SECTIONS and gives GLIFWC and its wardens access to the TIME system in exchange for GLIFWC accepting the duty to provide certain information in its possession to DOJ for inclusion in the TIME system.

the Department of Justice

create AR brown

SECTION 9. 165.85 (2) (g) of the statutes is renumbered 165.85 (2) (g) (intro.) and amended to read:

165.85 **(2)** (g) (intro.) "Tribal law enforcement officer" means ~~a~~ <u>any of the following:</u>

<u>1. A</u> person who is employed by a tribe for the purpose of detecting and preventing crime and enforcing the tribe's laws or ordinances, who is authorized by the tribe to make arrests of Indian persons for violations of the tribe's laws or ordinances, and who agrees to accept the duties of law enforcement officers under the laws of this state.

create AR black

SECTION 10. 165.85 (2) (g) 2. of the statutes is created to read:

165.85 **(2)** (g) 2. A conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission who agrees to accept the duties of law enforcement officers under the laws of this state.

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AR brown AR black

NOTE: The definition change made by SECTIONS and subjects GLIFWC wardens who agree to accept the duties of law enforcement officers to the rules and certification procedures of LESB, which is a prerequisite for exercising the authority to make arrests for violations of state law and to render aid or assistance under s. 175.41, as created by the draft.

CS SECTION 12 of this bill

SECTION 11. 175.40 (1) (c) of the statutes is amended to read:

175.40 **(1)** (c) "Peace officer" has the meaning specified in s. 939.22 (22), but does not include a commission warden, as defined in s. 939.22 (5). "Peace officer" ~~also~~ includes any tribal law enforcement officer who is empowered to act under s. 165.92 (2) (a).

NOTE: Excludes GLIFWC wardens from the general arrest and assist statute applicable to most law enforcement officers, as ~~the following~~ SECTION creates an arrest and assist statute specific to GLIFWC wardens.

SECTION 12. 175.41 of the statutes is created to read:

175.41 Arrest and assistance; wardens employed by the Great Lakes Indian Fish and Wildlife Commission. (1) In this section:

(a) "Ceded territory" means the territory in Wisconsin ceded by the Chippewa Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842, 7 Stat. 591.

(b) "Commission" means the Great Lakes Indian Fish and Wildlife Commission.

(c) "Commission warden" means a conservation warden employed by the commission.

(2) For purposes of civil and criminal liability, a commission warden may, when in fresh pursuit, follow anywhere in the state outside the ceded territory and arrest any of the following:

(a) A Chippewa tribal member for violation of the Chippewa off-reservation conservation code, if the conditions of sub. (3) (a) and (e) are met.

(b) Any person for violation of the laws of this state, if the conditions of sub. (3) (a) to (e) are met.

(3) Within the ceded territory, a commission warden may arrest a person for violation of state law or provide aid or assistance to a Wisconsin peace officer if all of the following criteria are met:

(a) The commission warden is on duty and on official business.

(b) Any of the following applies:

1. The commission warden is responding to any of the following:

a. An emergency situation that poses a significant threat to life or of bodily harm.

b. Acts that the commission warden believes, on reasonable grounds, constitute a felony.

2. The commission warden is rendering aid or assistance to a Wisconsin peace officer in an emergency or at the request of the Wisconsin peace officer.

(c) The commission warden meets the requirements of s. 165.85 (4) (b) 1., (bn) 1., and (c) and has agreed to accept the duties of a law enforcement officer under the laws of this state.

(d) The commission has adopted and implemented written policies regarding making arrests and rendering aid or assistance under this subsection, including a policy on notification to and cooperation with the law enforcement agency of the jurisdiction in which such arrests are made.

(e) The commission maintains liability insurance that does all of the following:

1. Covers the commission and commission wardens for acts and omissions under sub. (4).

2. Has a limit of coverage not less than $2,000,000 for any occurrence.

3. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

(4) Except as otherwise provided in an agreement between the commission and the state or a subdivision of the state, the commission is liable for all acts and omissions of a commission warden while acting under sub. (2) or (3), and neither the state nor any political subdivision of the state may be held liable for any action of a commission warden taken under the authority of sub. (2) or (3). For purposes of civil and criminal liability, a commission warden acting under sub. (2) or (3) is considered to be acting in an official capacity.

(5) Subsections (2) and (3) apply only if the commission has presented evidence to the department of justice of the insurance under sub. (3) (e). Upon receipt of evidence of insurance under sub. (3) (e), the department of justice shall notify the sheriff of each county in the ceded territory that the commission has met this criterion for performing the powers and duties described under subs. (2) and (3).

SECTION 13. 340.01 (3) (b) of the statutes is amended to read:

340.01 **(3)** (b) Conservation wardens' vehicles ~~or~~, foresters' trucks, <u>or vehicles used by commission wardens,</u> whether publicly or privately owned.

NOTE: Adds GLIFWC wardens' vehicles to the definition of "authorized emergency vehicle."

create A.R. peach

SECTION 14. 340.01 (8t) of the statutes is created to read:

340.01 **(8t)** "Commission" means the Great Lakes Indian Fish and Wildlife Commission.

create A.R. sienna

SECTION 15. 340.01 (8u) of the statutes is created to read:

340.01 **(8u)** "Commission warden" means a conservation warden employed by the commission.

use A.R. peach use A.R. sienna

NOTE: SECTIONS and define "the commission" and "commission warden" for purposes of the statutes relating to motor vehicles and ATVs, except ch. 350, stats.

SECTION 16. 341.17 (4) (h) of the statutes is created to read:

create A.R. white

341.17 **(4)** (h) To the commission, one copy of each automobile registration list under sub. (1).

SECTION 17. 341.17 (9) (c) 2. of the statutes is amended to read:

341.17 **(9)** (c) 2. A law enforcement agency, a state authority ~~or~~, a federal governmental agency, or the commission to perform a legally authorized function.

SECTION 18. 343.235 (3) (a) of the statutes is amended to read:

343.235 **(3)** (a) A law enforcement agency, a state authority ~~or~~, a federal governmental agency, or the commission to perform a legally authorized function.

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SECTION 19. 343.237 (4) of the statutes is amended to read:

343.237 **(4)** If a law enforcement agency of another state or the commission makes a request meeting all the requirements specified for a request by a Wisconsin law enforcement agency or a federal law enforcement agency under sub. (3), the department shall comply with the request if all of the following apply:

(a) The law enforcement agency of the other state or the commission agrees to comply with all of the requirements under this section.

(b) The other state or the commission allows Wisconsin law enforcement agencies similar or greater access to similar information from that state or the commission.

use AR white use AR ecru

Department of Transportation (DOT)

NOTE: SECTIONS to give GLIFWC access to DOT records regarding vehicle registrations, and to personal identifying information and drivers' license and identification card photographs to the same extent that current law gives access to law enforcement agencies and others.

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the Department of Justice

Much of this information is accessible through the TIME system, to which GLIFWC is given access by SECTIONS and of this draft. However, DOJ may not release the information via the TIME system to entities that do not have independent authority to receive the information directly from DOT, which these provisions provide.

SECTION 20. 350.02 (3m) of the statutes is amended to read:

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350.02 **(3m)** A law enforcement officer or a commission warden, as defined in s. 939.22 (5), may operate a snowmobile on a highway in performance of his or her official duties if the snowmobile is equipped with a light that is red or blue or a combination thereof and that is flashing, oscillating, or rotating.

SECTION 21. 350.17 (2) of the statutes is amended to read:

350.17 **(2)** No person operating a snowmobile shall refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in s. 939.22 (5).

NOTE: SECTION authorizes GLIFWC wardens to operate snowmobiles on highways, under specified circumstances, and SECTION requires other snowmobile operators to stop when signaled by a GLIFWC warden.

SECTION 22. 939.22 (5) of the statutes is created to read:

939.22 **(5)** "Commission warden" means a conservation warden employed by the Great Lakes Indian Fish and Wildlife Commission.

SECTION 23. 939.22 (22) of the statutes is amended to read:

939.22 **(22)** "Peace officer" means any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. "Peace officer" includes a commission warden.

SECTION 24. 939.22 (37) of the statutes is created to read:

939.22 **(37)** "State-certified commission warden" means a commission warden who meets the requirements of s. 165.85 (4) (b) 1., (bn) 1., and (c) and has agreed to accept the duties of a law enforcement officer under the laws of this state.

NOTE: SECTIONS to define "commission warden" and "state-certified commission warden" for purposes of the criminal code and amend the definition of "peace officer" to include GLIFWC wardens.

SECTION 25. 940.20 (2) of the statutes is amended to read:

940.20 **(2)** BATTERY TO LAW ENFORCEMENT OFFICERS ~~AND~~, FIRE FIGHTERS, AND COMMISSION WARDENS. Whoever intentionally causes bodily harm to a law enforcement officer or fire fighter, as those terms are defined in s. 102.475 (8) (b) and (c), or to a commission warden, acting in an official capacity and the person knows or has reason to know that the victim is a law enforcement officer ~~or~~, fire fighter, or commission warden, by an act done without the consent of the person so injured, is guilty of a Class H felony.

NOTE: Makes battery to a GLIFWC warden a Class H felony, as is battery to a law enforcement officer or fire fighter under current law.

SECTION 26. 941.20 (1m) (b) of the statutes is amended to read:

941.20 **(1m)** (b) Whoever intentionally points a firearm at or towards a law enforcement officer, a fire fighter, an emergency medical technician, a first responder, ~~or~~ an ambulance driver, or a commission warden who is acting in an official capacity and who the person knows or has reason to know is a law enforcement officer, a fire fighter, an emergency medical technician, a first responder, ~~or~~ an ambulance driver, or a commission warden is guilty of a Class H felony.

NOTE: Makes intentionally pointing a firearm at a GLIFWC warden a Class H felony, as is pointing a firearm at a law enforcement officer or certain others under current law.

SECTION 27. 941.20 (3) (b) 3. of the statutes is created to read:

941.20 **(3)** (b) 3. Notwithstanding subd. 1. a. and s. 939.22 (22), par. (a) applies to a commission warden who is not a state–certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the discharge of a firearm from a vehicle is extended only to state–certified GLIFWC wardens.

SECTION 28. 941.23 of the statutes is renumbered 941.23 (1).

SECTION 29. 941.23 (2) of the statutes is created to read:

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941.23 **(2)** Notwithstanding s. 939.22 (22), sub. (1) applies to a commission warden who is not a state-certified commission warden.

NOTE: SECTIONS ~~and~~ provides that the peace officers' exemption from the prohibition on carrying a concealed weapon is extended only to state-certified GLIFWC wardens.

SECTION 30. 941.235 (2) of the statutes is renumbered 941.235 (2) (a).

SECTION 31. 941.235 (2) (b) of the statutes is created to read:

941.235 **(2)** (b) Notwithstanding par. (a) and s. 939.22 (22), sub. (1) applies to a commission warden who is not a state-certified commission warden.

NOTE: SECTIONS and provide that the peace officers' exemption from the prohibition on carrying a firearm in a public building is extended only to state-certified GLIFWC wardens.

SECTION 32. 941.237 (3m) of the statutes is created to read:

941.237 **(3m)** Notwithstanding sub. (3) (a) and s. 939.22 (22), sub. (2) applies to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm where alcoholic beverages are sold is extended only to state-certified GLIFWC wardens.

SECTION 33. 941.26 (4) (cm) of the statutes is created to read:

941.26 **(4)** (cm) Notwithstanding par. (c) 2. and s. 939.22 (22), par. (b) applies to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of pepper spray is extended only to state-certified GLIFWC wardens.

SECTION 34. 941.29 (10) of the statutes is renumbered 941.29 (10) (am).

SECTION 35. 941.29 (10) (bm) of the statutes is created to read:

941.29 **(10)** (bm) Notwithstanding par. (am) 1. and s. 939.22 (22), the prohibition against possession of a firearm under this section applies to a person specified in sub. (1) (f) who is a commission warden but who is not a state-certified commission warden.

NOTE: SECTIONS and provide that the peace officers' exemption from the prohibition on the possession of a firearm by a person subject to a domestic abuse or child abuse injunction is extended only to state-certified GLIFWC wardens.

1 **SECTION 36.** 941.295 (2m) of the statutes is created to read:

2 941.295 **(2m)** Notwithstanding sub. (2) (a) and s. 939.22 (22), sub. (1) applies
3 to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of an electric weapon is extended only to state-certified GLIFWC wardens.

4 **SECTION 37.** 941.2965 (3) (a) of the statutes is amended to read:

5 941.2965 **(3)** (a) Any peace officer acting in the discharge of his or her official
6 duties. Notwithstanding s. 939.22 (22), this paragraph does not apply to a
7 commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from prohibitions regarding the possession or display of facsimile firearms.

8 **SECTION 38.** 941.298 (3) (a) of the statutes is amended to read:

9 941.298 **(3)** (a) Any peace officer who is acting in compliance with the written
10 policies of the officer's department or agency. This paragraph does not apply to any
11 officer whose department or agency does not have such a policy. Notwithstanding
12 s. 939.22 (22), this paragraph does not apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the sale, delivery, or possession of a firearms silencer.

13 **SECTION 39.** 941.299 (2) (a) of the statutes is amended to read:

14 941.299 **(2)** (a) Intentionally direct a beam of light from a laser pointer at any
15 part of the body of a correctional officer ~~or~~, law enforcement officer, or commission
16 warden without the officer's consent, if the person knows or has reason to know that
17 the victim is a correctional officer ~~or~~, law enforcement officer, or commission warden
18 who is acting in an official capacity.

NOTE: Prohibits pointing a laser pointer at a GLIFWC warden, as current law prohibits pointing a laser pointer at a law enforcement or correctional officer.

1 **SECTION 40.** 941.31 (2) (c) of the statutes is amended to read:

2 941.31 **(2)** (c) This subsection does not apply to the transportation, possession,
3 use, or transfer of any improvised explosive device by any armed forces or national
4 guard personnel or to any peace officer in the line of duty or as part of a duty-related
5 function or exercise. The restriction on transportation in this subsection does not
6 apply to common carriers. Notwithstanding s. 939.22 (22), this paragraph does not
7 apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the transportation, possession, use, or transfer of an improvised explosive device.

8 **SECTION 41.** 948.55 (4m) of the statutes is created to read:

9 948.55 **(4m)** Notwithstanding sub. (4) (d) and s. 939.22 (22), subs. (2) and (3)
10 apply to a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' limited exemption from the prohibition on allowing a child to gain access to a loaded firearm is extended only to state-certified GLIFWC wardens.

create AR lilac

11 **SECTION 42.** 948.605 (2) (b) 6. of the statutes is amended to read:

12 948.605 **(2)** (b) 6. By a law enforcement officer or state-certified commission
13 warden acting in his or her official capacity; or

14 **SECTION 43.** 948.605 (3) (b) 4. of the statutes is amended to read:

15 948.605 **(3)** (b) 4. By a law enforcement officer or state-certified commission
16 warden acting in his or her official capacity.

create AR aqua

17 **SECTION 44.** 948.61 (3) (c) of the statutes is amended to read:

18 948.61 **(3)** (c) Is a law enforcement officer or state-certified commission warden
19 acting in the discharge of his or her official duties.

use AR lilac use AR aqua

NOTE: SECTIONS to extend to state-certified GLIFWC wardens the exception to the prohibitions on possession or discharge of a firearm and possession of other dangerous weapons in a school zone that current law gives to law enforcement officers.

20 **(END)**

Insert 12-19

SECTION 1. 941.20 (3) (b) 1. a. of the statutes is amended to read:

941.20 **(3)** (b) 1. a. A peace officer, except for a commission warden who is not a state-certified commission warden.

History: 1977 c. 173; 1987 a. 399; 1989 a. 131; 1993 a. 94, 486; 1997 a. 248, 249; 1999 a. 32; 2001 a. 109; 2003 a. 97, 190.

NOTE: Provides that the peace officers' exemption from the prohibition on the discharge of a firearm from a vehicle extends only to state-certified GLIFWC wardens.

SECTION 2. 941.23 of the statutes is amended to read:

941.23 Carrying concealed weapon. Any person except a peace officer who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor. Notwithstanding s. 939.22 (22), a peace officer does not include a commission warden who is not a state-certified commission warden.

History: 1977 c. 173; 1979 c. 115, 221.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a concealed weapon extends only to state-certified GLIFWC wardens.

SECTION 3. 941.235 (2) of the statutes is amended to read:

941.235 **(2)** This section does not apply to peace officers or armed forces or military personnel who go armed in the line of duty or to any person duly authorized by the chief of police of any city, village or town, the chief of the capitol police, or the sheriff of any county to possess a firearm in any building under sub. (1). Notwithstanding s. 939.22 (22), a peace officer does not include a commission warden who is not a state-certified commission warden.

History: 1979 c. 221; 1991 a. 172; 1993 a. 246; 2001 a. 109.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm in a public building is extended only to state-certified GLIFWC wardens.

SECTION 4. 941.237 (1) (dr) of the statutes is created to read:

941.237 **(1)** (dr) Notwithstanding s. 939.22 (22), "peace officer" does not include a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm where alcoholic beverages are sold is extended only to state-certified GLIFWC wardens.

1 **SECTION 5.** 941.26 (4) (c) 2. of the statutes is amended to read:

2 941.26 **(4)** (c) 2. Any peace officer acting in his or her official capacity.
3 Notwithstanding s. 939.22 (22), in this subdivision, a peace officer does not include
4 a commission warden who is not a state-certified commission warden.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25; 2001 a. 109.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of pepper spray is extended only to state-certified GLIFWC wardens.

5 **SECTION 6.** 941.26 (4) (c) 2. of the statutes is amended to read:

6 941.26 **(4)** (c) 2. Any peace officer acting in his or her official capacity.
7 Notwithstanding s. 939.22 (22), in this subdivision, a peace officer does not include
8 a commission warden who is not a state-certified commission warden.

History: 1977 c. 173; 1987 a. 234; 1991 a. 137; 1993 a. 91; 1995 a. 25; 2001 a. 109.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of pepper spray is extended only to state-certified GLIFWC wardens.

9 **SECTION 7.** 941.29 (10) (a) of the statutes is amended to read:

10 941.29 **(10)** (a) The person is a peace officer and the person possesses a firearm
11 while in the line of duty or, if required to do so as a condition of employment, while
12 off duty. Notwithstanding s. 939.22 (22), a peace officer does not include a
13 commission warden who is not a state-certified commission warden.

History: 1981 c. 141, 317; 1983 a. 269; 1985 a. 259; 1993 a. 195, 196, 491; 1995 a. 71, 77, 306, 417; 2001 a. 109.

NOTE: Provides that the peace officers' exemption from the prohibition on the possession of a firearm by a person subject to a domestic abuse or child abuse injunction extends only to state-certified GLIFWC wardens.

14 **SECTION 8.** 941.295 (2) (a) of the statutes is amended to read:

15 941.295 **(2)** (a) Any peace officer. Notwithstanding s. 939.22 (22), a peace officer
16 does not include a commission warden who is not a state-certified commission
17 warden.

History: 1981 c. 348; 1985 a. 29 s. 3200 (35); 1989 a. 31, 56; 2001 a. 109.

18

1 Insert 15-10

2 **SECTION 9.** 948.55 (4) (d) of the statutes is amended to read:

3 948.55 **(4)** (d) The person is a peace officer or a member of the armed forces or
4 national guard and the child obtains the firearm during or incidental to the
5 performance of the person's duties. Notwithstanding s. 939.22 (22), for purposes of
6 this paragraph, ~~a~~ peace officer does not include a commission warden who is not a
7 state-certified commission warden.

History: 1991 a. 139; 1997 a. 248.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1916/P1dn
CMH:...:sh

(date)

David:

Please see my organization changes regarding the extension of peace officer exemptions to only state-certified GLIFWC wardens. I think that the changes are clearer. For instance, in the original created s. 941.23 (2), the statement "sub. (1) applies" is unclear because what part of sub. (1) applies--the general prohibition or the limited exemption? Also I was confused by a prohibition that applies to all persons except peace officers and then, in a later provision, except to some peace officers. I am not sure if the language should be improved--there might be a better way such as "applies to all peace officers except to commision wardens who are not state-certified" or something like your treatment of s. 941.298 (3) (a). OK?

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1916/P2dn
CMH:lmk:jf

February 27, 2007

David:

Please see my organizational changes regarding the extension of peace officer exemptions to only state-certified GLIFWC wardens. I think that the changes are clearer. For instance, in the original created s. 941.23 (2), the statement "sub. (1) applies" is unclear because what part of sub. (1) applies—the general prohibition or the limited exemption? Also I was confused by a prohibition that applies to all persons except peace officers and then, in a later provision, except to some peace officers. I am not sure if the language should be improved—there might be a better way such as "applies to all peace officers except to commission wardens who are not state-certified" or something like your treatment of s. 941.298 (3) (a). OK?

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1916/P2
CMH:lmk:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ***to renumber and amend*** 165.83 (1) (e) and 165.85 (2) (g); ***to amend*** 23.29 (23), 23.293 (19), 23.33 (4) (c) 1., 23.33 (12) (b), 23.51 (3), 30.64, 175.40 (1) (c), 340.01 (3) (b), 341.17 (9) (c) 2., 343.235 (3) (a), 343.237 (4), 350.02 (3m), 350.17 (2), 939.22 (22), 940.20 (2), 941.20 (1m) (b), 941.20 (3) (b) 1. a., 941.23, 941.235 (2), 941.26 (4) (c) 2., 941.29 (10) (a), 941.295 (2) (a), 941.2965 (3) (a), 941.298 (3) (a), 941.299 (2) (a), 941.31 (2) (c), 948.55 (4) (d), 948.605 (2) (b) 6., 948.605 (3) (b) 4. and 948.61 (3) (c); and ***to create*** 165.83 (1) (e) 2., 165.85 (2) (g) 2., 175.41, 340.01 (8t), 340.01 (8u), 341.17 (4) (h), 939.22 (5), 939.22 (37) and 941.237 (1) (dr) of the statutes; **relating to:** conservation wardens employed by the Great Lakes Indian Fish and Wildlife Commission.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill, developed by the joint legislative council's special committee on state-tribal relations, extends the application of a broad range of statutes related to law enforcement to conservation wardens employed by the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) and authorizes GLIFWC wardens (referred to in the bill as "commission wardens") to aid or assist a Wisconsin peace officer or to make an arrest for a violation of state law under specified circumstances.

Background

In the 1970s and 1980s, litigation in federal court sought to determine the extent of rights for the harvest of natural resources retained by the Chippewa Indian bands when the bands ceded territory to the United States in treaties in 1837 and 1842. In a series of orders, the court affirmed the bands' continuing rights to hunt, fish, and gather on off-reservation public lands and waters throughout the ceded territories in northern Wisconsin. Among other things, the court approved the Chippewa bands' proposal to adopt an off-reservation conservation code (off-reservation code) governing their members' exercise of those rights within the ceded territory but not on any Chippewa reservation, and to form an intertribal agency to enforce that code. GLIFWC is the agency the Chippewa bands created for this purpose.

An incident in which a GLIFWC warden working off-reservation detained a non-Indian person for a state firearms violation and delivered the individual to the county sheriff called into question the authority of the warden to detain the individual, as well as the legality of other aspects of the warden's behavior, such as going armed in the uniform of a law enforcement officer in a vehicle with equipment such as lights and siren.

This case brought to attention that much of what GLIFWC wardens do is not contemplated under the statutes and that, in fact, the statutes could be read as prohibiting GLIFWC wardens from doing many things that the federal court authorized them to do. Similarly, many statutes that serve to protect the physical safety of law enforcement officers and others that serve to protect the interests of the public do not apply to GLIFWC wardens. These statutes *do* apply to conservation wardens employed by the Department of Natural Resources.

The bill

The bill is intended to accomplish two goals: a) to facilitate the work of GLIFWC and its wardens in enforcing the off-reservation code; and b) to enable GLIFWC wardens to assist state and local law enforcement agencies under certain circumstances.

FACILITATING THE WORK OF GLIFWC WARDENS

To facilitate the work of GLIFWC wardens, the bill applies many provisions of the criminal code and the conservation and motor vehicle statutes to them. In general, the bill does the following:

1. Applies statutes regarding the protection of officers or interference with law enforcement to all GLIFWC wardens. Examples of the statutes treated in this manner are: s. 940.20 (2), stats., battery to a law enforcement officer; s. 941.21, stats., disarming a peace officer; and s. 946.41, stats., resisting or obstructing an officer. The bill also applies a number of other, miscellaneous statutes to all GLIFWC wardens, such as the requirement that a peace officer provide first aid to a person in custody (s. 940.291, stats.), communicable diseases (ch. 252, stats.), and the exception for peace officers to the prohibition on shining animals (s. 29.314, stats.). The bill also applies to all GLIFWC wardens the exceptions enjoyed by peace officers to various aspects of the motor vehicle code, including exceptions to various rules of the road and various restrictions on vehicle equipment.

2. Applies most statutes regarding the possession or use of firearms and other weapons by peace officers to GLIFWC wardens who meet state certification standards. Examples of statutes treated in this manner are exceptions for peace officers to prohibitions against carrying concealed weapons (s. 941.23, stats.), and the use of pepper spray (s. 941.26, stats.). The bill does not apply statutes authorizing the possession or use of explosives or particularly dangerous weapons to any GLIFWC warden. Examples of statutes in this category are exceptions for peace officers to prohibitions against the possession or use of machine guns, short-barreled shotguns and rifles, explosives, and other weapons.

3. Authorizes GLIFWC and its wardens to use the transaction information for management of enforcement (TIME) system if GLIFWC agrees to contribute information in its possession to the Department of Justice for addition to the TIME system. The TIME system allows officers in the field to access information regarding criminal investigations, suspected criminals, and outstanding warrants, as well as drivers' license and vehicle registration information, using computers installed in their patrol vehicles.

4. Applies the statutes administered by the law enforcement standards board (LESB) to GLIFWC wardens who agree to accept the duties of law enforcement officers under the laws of this state, which makes a GLIFWC warden subject to the rules and certification procedures of the LESB, and which is a prerequisite for exercising the authority, as created by this bill, to make arrests for violations of state law and to render aid and assistance to state peace officers.

5. Authorizes GLIFWC to receive from the Department of Transportation monthly compilations of vehicle registration information, drivers' license and identification card photographs, and other identifying information in the same manner that sheriffs and chiefs of local police departments, among others, currently receive this information.

AUTHORITY TO ARREST AND ASSIST

The bill authorizes a GLIFWC warden to make an arrest for a violation of state law in the ceded territory if the warden is responding to either: a) an emergency situation that poses a significant threat to life or of bodily harm; or b) acts that the warden believes, on reasonable grounds, constitute a felony. The bill authorizes a GLIFWC warden also to render aid or assistance to a Wisconsin peace officer in the ceded territory in an emergency or at the request of the Wisconsin peace officer. A GLIFWC warden may take these actions only if all of the following conditions are met:

1. The warden is on duty and on official business.

2. The warden meets the training standards for state and local law enforcement officers and has agreed to accept the duties of law enforcement officers under the laws of this state.

3. GLIFWC has adopted and implemented written policies regarding making felony arrests under state law and rendering aid or assistance to state or local officers.

4. GLIFWC maintains liability insurance that does all of the following:

(a) Covers GLIFWC's liability up to a limit of not less than $2 million per occurrence for the acts and omissions of its wardens acting under this authority.

(b) Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to that limit.

The bill also authorizes GLIFWC wardens to engage in fresh pursuit in Wisconsin beyond the ceded territory under specified circumstances.

1 **SECTION 1.** 23.29 (23) of the statutes is amended to read:

1 23.29 **(23)** ENFORCEMENT. The department and its agents, the department of
2 justice, and peace officers, as defined under s. 939.22 (22), but not including
3 commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated
4 state natural areas in the geographic jurisdiction to enforce articles of dedication and
5 restrictions authorized under sub. (21).

6 **SECTION 2.** 23.293 (19) of the statutes is amended to read:

7 23.293 **(19)** ENFORCEMENT. The department and its agents, the department of
8 justice, and peace officers, as defined under s. 939.22 (22), but not including
9 commission wardens, as defined under s. 939.22 (5), have jurisdiction on dedicated
10 ice age trail areas.

NOTE: SECTIONS 1 and 2 exclude GLIFWC wardens from the list of entities having enforcement authority for purposes of dedicated state natural areas and Ice Age Trail areas.

11 **SECTION 3.** 23.33 (4) (c) 1. of the statutes is amended to read:

12 23.33 **(4)** (c) 1. Paragraphs (a) and (b) do not apply to the operator of an
13 all–terrain vehicle owned by a municipality, state agency, or public utility, or by the
14 Great Lakes Indian Fish and Wildlife Commission, while the operator is engaged in
15 an emergency or in the operation of an all–terrain vehicle directly related to the
16 functions of the municipality, state agency, or public utility, or of the Great Lakes
17 Indian Fish and Wildlife Commission, if safety does not require strict adherence to
18 these restrictions.

19 **SECTION 4.** 23.33 (12) (b) of the statutes is amended to read:

20 23.33 **(12)** (b) No operator of an all–terrain vehicle may refuse to stop after
21 being requested or signaled to do so by a law enforcement officer or a commission
22 warden, as defined in s. 939.22 (5).

NOTE: SECTIONS 3 and 4 authorize GLIFWC wardens to operate all-terrain vehicles (ATVs) on highways, under specified circumstances, and require other ATV operators to stop when signaled by a GLIFWC warden.

SECTION 5. 23.51 (3) of the statutes is amended to read:

23.51 **(3)** "Enforcing officer" means a peace officer as defined ~~by~~ in s. 939.22 (22), but not including a commission warden, as defined in s. 939.22 (5), or means a person who has authority to act pursuant to a specific statute.

NOTE: Excludes GLIFWC wardens from the definition of "enforcing officer" for purposes of forfeiture procedures for the enforcement of state conservation laws.

SECTION 6. 30.64 of the statutes is amended to read:

30.64 Patrol boats. (1) The operator of a patrol boat, including a commission warden, as defined in s. 939.22 (5), when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, need not comply with this subchapter or ordinances under s. 30.77 when a siren or emergency light is activated or, if the patrol boat is equipped with a siren and an emergency light, when both the siren and emergency light are activated, and if due regard is given to the safety of other persons in the vicinity. If an emergency light is used, it shall be of a type and design specified under 33 CFR 88.11 or 88.12.

(2) Upon the approach of a patrol boat, including a patrol boat operated by a commission warden, as defined in s. 939.22 (5), giving an audio or visual signal, the operator of a boat shall reduce the boat speed to slow-no-wake and yield the right-of-way to the patrol boat until it has passed.

(3) No person operating a boat may refuse to stop after being requested or signaled to do so by a law enforcement officer or a commission warden, as defined in s. 939.22 (5).

NOTE: Authorizes GLIFWC wardens to operate patrol boats in excess of speed limits, under specified circumstances, and requires other boat operators to yield to GLIFWC patrol boats and to stop when signaled by a GLIFWC warden.

1 **SECTION 7.** 165.83 (1) (e) of the statutes is renumbered 165.83 (1) (e) (intro.) and
2 amended to read:
3 165.83 **(1)** (e) (intro.) "Tribal law enforcement agency" means ~~an~~ any of the
4 following:
5 1. An agency of a tribe that is established for the purpose of preventing and
6 detecting crime on the reservation or trust lands of the tribe and enforcing the tribe's
7 laws or ordinances, that employs full time one or more persons who are granted law
8 enforcement and arrest powers under s. 165.92 (2) (a), and that was created by a tribe
9 that agrees that its law enforcement agency will perform the duties required of the
10 agency under this section and s. 165.84.
11 **SECTION 8.** 165.83 (1) (e) 2. of the statutes is created to read:
12 165.83 **(1)** (e) 2. The Great Lakes Indian Fish and Wildlife Commission, if the
13 Great Lakes Indian Fish and Wildlife Commission agrees to perform the duties
14 required under this section and s. 165.84.

NOTE: The definition change made by SECTIONS 7 and 8 gives GLIFWC and its wardens access to the TIME system in exchange for GLIFWC accepting the duty to provide certain information in its possession to the Department of Justice for inclusion in the TIME system.

15 **SECTION 9.** 165.85 (2) (g) of the statutes is renumbered 165.85 (2) (g) (intro.)
16 and amended to read:
17 165.85 **(2)** (g) (intro.) "Tribal law enforcement officer" means ~~a~~ any of the
18 following:
19 1. A person who is employed by a tribe for the purpose of detecting and
20 preventing crime and enforcing the tribe's laws or ordinances, who is authorized by
21 the tribe to make arrests of Indian persons for violations of the tribe's laws or
22 ordinances, and who agrees to accept the duties of law enforcement officers under the
23 laws of this state.

1 **SECTION 10.** 165.85 (2) (g) 2. of the statutes is created to read:

2 165.85 **(2)** (g) 2. A conservation warden employed by the Great Lakes Indian
3 Fish and Wildlife Commission who agrees to accept the duties of law enforcement
4 officers under the laws of this state.

NOTE: The definition change made by SECTIONS 9 and 10 subjects GLIFWC wardens who agree to accept the duties of law enforcement officers to the rules and certification procedures of LESB, which is a prerequisite for exercising the authority to make arrests for violations of state law and to render aid or assistance under s. 175.41, as created by SECTION 10 of this bill.

5 **SECTION 11.** 175.40 (1) (c) of the statutes is amended to read:

6 175.40 **(1)** (c) "Peace officer" has the meaning specified in s. 939.22 (22), but ~~also~~
7 does not include a commission warden, as defined in s. 939.22 (5). "Peace officer"
8 includes any tribal law enforcement officer who is empowered to act under s. 165.92
9 (2) (a).

NOTE: Excludes GLIFWC wardens from the general arrest and assist statute applicable to most law enforcement officers, as SECTION 12 creates an arrest and assist statute specific to GLIFWC wardens.

10 **SECTION 12.** 175.41 of the statutes is created to read:

11 **175.41 Arrest and assistance; wardens employed by the Great Lakes**
12 **Indian Fish and Wildlife Commission. (1)** In this section:

13 (a) "Ceded territory" means the territory in Wisconsin ceded by the Chippewa
14 Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842,
15 7 Stat. 591.

16 (b) "Commission" means the Great Lakes Indian Fish and Wildlife
17 Commission.

18 (c) "Commission warden" means a conservation warden employed by the
19 commission.

1 **(2)** For purposes of civil and criminal liability, a commission warden may, when
2 in fresh pursuit, follow anywhere in the state outside the ceded territory and arrest
3 any of the following:
4 (a) A Chippewa tribal member for violation of the Chippewa off-reservation
5 conservation code, if the conditions of sub. (3) (a) and (e) are met.
6 (b) Any person for violation of the laws of this state, if the conditions of sub. (3)
7 (a) to (e) are met.
8 **(3)** Within the ceded territory, a commission warden may arrest a person for
9 violation of state law or provide aid or assistance to a Wisconsin peace officer if all
10 of the following criteria are met:
11 (a) The commission warden is on duty and on official business.
12 (b) Any of the following applies:
13 1. The commission warden is responding to any of the following:
14 a. An emergency situation that poses a significant threat to life or a significant
15 threat of bodily harm.
16 b. Acts that the commission warden believes, on reasonable grounds, constitute
17 a felony.
18 2. The commission warden is rendering aid or assistance to a Wisconsin peace
19 officer in an emergency or at the request of the Wisconsin peace officer.
20 (c) The commission warden meets the requirements of s. 165.85 (4) (b) 1., (bn)
21 1., and (c) and has agreed to accept the duties of a law enforcement officer under the
22 laws of this state.
23 (d) The commission has adopted and implemented written policies regarding
24 making arrests and rendering aid or assistance under this subsection, including a

policy on notification to and cooperation with the law enforcement agency of the jurisdiction in which such arrests are made.

(e) The commission maintains liability insurance that does all of the following:

1. Covers the commission and commission wardens for acts and omissions under sub. (4).

2. Has a limit of coverage not less than $2,000,000 for any occurrence.

3. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.

(4) Except as otherwise provided in an agreement between the commission and the state or a subdivision of the state, the commission is liable for all acts and omissions of a commission warden while acting under sub. (2) or (3), and neither the state nor any political subdivision of the state may be held liable for any action of a commission warden taken under the authority of sub. (2) or (3). For purposes of civil and criminal liability, a commission warden acting under sub. (2) or (3) is considered to be acting in an official capacity.

(5) Subsections (2) and (3) apply only if the commission has presented evidence to the department of justice of the insurance under sub. (3) (e). Upon receipt of evidence of insurance under sub. (3) (e), the department of justice shall notify the sheriff of each county in the ceded territory that the commission has met this criterion for performing the powers and duties described under subs. (2) and (3).

SECTION 13. 340.01 (3) (b) of the statutes is amended to read:

340.01 **(3)** (b) Conservation wardens' vehicles ~~or~~, foresters' trucks, <u>or vehicles used by commission wardens,</u> whether publicly or privately owned.

NOTE: Adds GLIFWC wardens' vehicles to the definition of "authorized emergency vehicle."

1 **SECTION 14.** 340.01 (8t) of the statutes is created to read:

2 340.01 **(8t)** "Commission" means the Great Lakes Indian Fish and Wildlife
3 Commission.

4 **SECTION 15.** 340.01 (8u) of the statutes is created to read:

5 340.01 **(8u)** "Commission warden" means a conservation warden employed by
6 the commission.

NOTE: SECTIONS 14 and 15 define "commission" and "commission warden" for purposes of the statutes relating to motor vehicles and ATVs, except ch. 350, stats.

7 **SECTION 16.** 341.17 (4) (h) of the statutes is created to read:

8 341.17 **(4)** (h) To the commission, one copy of each automobile registration list
9 under sub. (1).

10 **SECTION 17.** 341.17 (9) (c) 2. of the statutes is amended to read:

11 341.17 **(9)** (c) 2. A law enforcement agency, a state authority ~~or~~, a federal
12 governmental agency, or the commission to perform a legally authorized function.

13 **SECTION 18.** 343.235 (3) (a) of the statutes is amended to read:

14 343.235 **(3)** (a) A law enforcement agency, a state authority ~~or~~, a federal
15 governmental agency, or the commission to perform a legally authorized function.

16 **SECTION 19.** 343.237 (4) of the statutes is amended to read:

17 343.237 **(4)** If a law enforcement agency of another state or the commission
18 makes a request meeting all the requirements specified for a request by a Wisconsin
19 law enforcement agency or a federal law enforcement agency under sub. (3), the
20 department shall comply with the request if all of the following apply:

21 (a) The law enforcement agency of the other state or the commission agrees to
22 comply with all of the requirements under this section.

1 (b) The other state or the commission allows Wisconsin law enforcement
2 agencies similar or greater access to similar information from that state or the
3 commission.

NOTE: SECTIONS 16 to 19 give GLIFWC access to Department of Transportation (DOT) records regarding vehicle registrations, and to personal identifying information and drivers' license and identification card photographs to the same extent that current law gives access to law enforcement agencies and others.

Much of this information is accessible through the TIME system, to which GLIFWC is given access by SECTIONS 7 and 8 of this bill. However, the Department of Justice may not release the information via the TIME system to entities that do not have independent authority to receive the information directly from DOT, which these provisions provide.

4 **SECTION 20.** 350.02 (3m) of the statutes is amended to read:

5 350.02 **(3m)** A law enforcement officer or a commission warden, as defined in
6 s. 939.22 (5), may operate a snowmobile on a highway in performance of his or her
7 official duties if the snowmobile is equipped with a light that is red or blue or a
8 combination thereof and that is flashing, oscillating, or rotating.

9 **SECTION 21.** 350.17 (2) of the statutes is amended to read:

10 350.17 **(2)** No person operating a snowmobile shall refuse to stop after being
11 requested or signaled to do so by a law enforcement officer or a commission warden,
12 as defined in s. 939.22 (5).

NOTE: SECTION 20 authorizes GLIFWC wardens to operate snowmobiles on highways, under specified circumstances, and SECTION 21 requires snowmobile operators to stop when signaled by a GLIFWC warden.

13 **SECTION 22.** 939.22 (5) of the statutes is created to read:

14 939.22 **(5)** "Commission warden" means a conservation warden employed by
15 the Great Lakes Indian Fish and Wildlife Commission.

16 **SECTION 23.** 939.22 (22) of the statutes is amended to read:

17 939.22 **(22)** "Peace officer" means any person vested by law with a duty to
18 maintain public order or to make arrests for crime, whether that duty extends to all
19 crimes or is limited to specific crimes. "Peace officer" includes a commission warden.

1 **SECTION 24.** 939.22 (37) of the statutes is created to read:

2 939.22 **(37)** "State-certified commission warden" means a commission warden
3 who meets the requirements of s. 165.85 (4) (b) 1., (bn) 1., and (c) and has agreed to
4 accept the duties of a law enforcement officer under the laws of this state.

NOTE: SECTIONS 22 and 24 define "commission warden" and "state-certified commission warden" for purposes of the criminal code, and SECTION 23 amends the definition of "peace officer" to include GLIFWC wardens.

5 **SECTION 25.** 940.20 (2) of the statutes is amended to read:

6 940.20 **(2)** BATTERY TO LAW ENFORCEMENT OFFICERS ~~AND~~, FIRE FIGHTERS, AND
7 COMMISSION WARDENS. Whoever intentionally causes bodily harm to a law
8 enforcement officer or fire fighter, as those terms are defined in s. 102.475 (8) (b) and
9 (c), or to a commission warden, acting in an official capacity and the person knows
10 or has reason to know that the victim is a law enforcement officer ~~or~~, fire fighter, or
11 commission warden, by an act done without the consent of the person so injured, is
12 guilty of a Class H felony.

NOTE: Makes battery to a GLIFWC warden a Class H felony, as is battery to a law enforcement officer or fire fighter under current law.

13 **SECTION 26.** 941.20 (1m) (b) of the statutes is amended to read:

14 941.20 **(1m)** (b) Whoever intentionally points a firearm at or towards a law
15 enforcement officer, a fire fighter, an emergency medical technician, a first
16 responder, ~~or~~ an ambulance driver, or a commission warden who is acting in an
17 official capacity and who the person knows or has reason to know is a law
18 enforcement officer, a fire fighter, an emergency medical technician, a first
19 responder, ~~or~~ an ambulance driver, or a commission warden is guilty of a Class H
20 felony.

NOTE: Makes intentionally pointing a firearm at a GLIFWC warden a Class H felony, as is pointing a firearm at a law enforcement officer or certain others under current law.

1 **SECTION 27.** 941.20 (3) (b) 1. a. of the statutes is amended to read:

2 941.20 **(3)** (b) 1. a. A peace officer, except for a commission warden who is not
3 a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the discharge of a firearm from a vehicle extends only to state-certified GLIFWC wardens.

4 **SECTION 28.** 941.23 of the statutes is amended to read:

5 **941.23 Carrying concealed weapon.** Any person except a peace officer who
6 goes armed with a concealed and dangerous weapon is guilty of a Class A
7 misdemeanor. Notwithstanding s. 939.22 (22), peace officer does not include a
8 commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a concealed weapon extends only to state-certified GLIFWC wardens.

9 **SECTION 29.** 941.235 (2) of the statutes is amended to read:

10 941.235 **(2)** This section does not apply to peace officers or armed forces or
11 military personnel who go armed in the line of duty or to any person duly authorized
12 by the chief of police of any city, village or town, the chief of the capitol police, or the
13 sheriff of any county to possess a firearm in any building under sub. (1).
14 Notwithstanding s. 939.22 (22), peace officer does not include a commission warden
15 who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm in a public building is extended only to state-certified GLIFWC wardens.

16 **SECTION 30.** 941.237 (1) (dr) of the statutes is created to read:

17 941.237 **(1)** (dr) Notwithstanding s. 939.22 (22), "peace officer" does not include
18 a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on carrying a firearm where alcoholic beverages are sold is extended only to state-certified GLIFWC wardens.

19 **SECTION 31.** 941.26 (4) (c) 2. of the statutes is amended to read:

for purposes of

941.26 **(4)** (c) 2. Any peace officer acting in his or her official capacity. Notwithstanding s. 939.22 (22), ~~in~~ this subdivision, peace officer does not include a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of pepper spray is extended only to state-certified GLIFWC wardens.

use 2x

for purposes of this paragraph

SECTION 32. 941.29 (10) (a) of the statutes is amended to read:

941.29 **(10)** (a) The person is a peace officer and the person possesses a firearm while in the line of duty or, if required to do so as a condition of employment, while off duty. Notwithstanding s. 939.22 (22), peace officer does not include a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the possession of a firearm by a person subject to a domestic abuse or child abuse injunction extends only to state-certified GLIFWC wardens.

SECTION 33. 941.295 (2) (a) of the statutes is amended to read:

941.295 **(2)** (a) Any peace officer. Notwithstanding s. 939.22 (22), peace officer does not include a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' exemption from the prohibition on the use of an electric weapon is extended only to state-certified GLIFWC wardens.

SECTION 34. 941.2965 (3) (a) of the statutes is amended to read:

941.2965 **(3)** (a) Any peace officer acting in the discharge of his or her official duties. Notwithstanding s. 939.22 (22), this paragraph does not apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from prohibitions regarding the possession or display of facsimile firearms.

SECTION 35. 941.298 (3) (a) of the statutes is amended to read:

941.298 **(3)** (a) Any peace officer who is acting in compliance with the written policies of the officer's department or agency. This paragraph does not apply to any

officer whose department or agency does not have such a policy. Notwithstanding s. 939.22 (22), this paragraph does not apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the sale, delivery, or possession of a firearms silencer.

SECTION 36. 941.299 (2) (a) of the statutes is amended to read:

941.299 **(2)** (a) Intentionally direct a beam of light from a laser pointer at any part of the body of a correctional officer ~~or~~, law enforcement officer, or commission warden without the officer's consent, if the person knows or has reason to know that the victim is a correctional officer ~~or~~, law enforcement officer, or commission warden who is acting in an official capacity.

NOTE: Prohibits pointing a laser pointer at a GLIFWC warden, as current law prohibits pointing a laser pointer at a law enforcement or correctional officer.

SECTION 37. 941.31 (2) (c) of the statutes is amended to read:

941.31 **(2)** (c) This subsection does not apply to the transportation, possession, use, or transfer of any improvised explosive device by any armed forces or national guard personnel or to any peace officer in the line of duty or as part of a duty-related function or exercise. The restriction on transportation in this subsection does not apply to common carriers. Notwithstanding s. 939.22 (22), this paragraph does not apply to a commission warden.

NOTE: Specifies that GLIFWC wardens are *not* exempt from the prohibition of the transportation, possession, use, or transfer of an improvised explosive device.

SECTION 38. 948.55 (4) (d) of the statutes is amended to read:

948.55 **(4)** (d) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during or incidental to the performance of the person's duties. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer does not include a commission warden who is not a state-certified commission warden.

NOTE: Provides that the peace officers' limited exemption from the prohibition on allowing a child to gain access to a loaded firearm is extended only to state-certified GLIFWC wardens.

1 **SECTION 39.** 948.605 (2) (b) 6. of the statutes is amended to read:

2 948.605 **(2)** (b) 6. By a law enforcement officer <u>or state-certified commission</u>
3 <u>warden</u> acting in his or her official capacity; or

4 **SECTION 40.** 948.605 (3) (b) 4. of the statutes is amended to read:

5 948.605 **(3)** (b) 4. By a law enforcement officer <u>or state-certified commission</u>
6 <u>warden</u> acting in his or her official capacity.

7 **SECTION 41.** 948.61 (3) (c) of the statutes is amended to read:

8 948.61 **(3)** (c) Is a law enforcement officer <u>or state-certified commission warden</u>
9 acting in the discharge of his or her official duties.

NOTE: SECTIONS 39 to 41 extend to state-certified GLIFWC wardens the exception to the prohibitions on possession or discharge of a firearm and possession of other dangerous weapons in a school zone that current law gives to law enforcement officers.

10 **(END)**

Parisi, Lori

From: Lovell, David
Sent: Thursday, March 15, 2007 8:45 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-1916/1 Topic: Conservation warders employed by the Great Lakes Indian Fish and Wildlife Commission

Please Jacket LRB 07-1916/1 for the ASSEMBLY.