

State of Wisconsin



2013 Senate Bill 189

Date of enactment: **December 12, 2013**
Date of publication*: **December 13, 2013**

2013 WISCONSIN ACT 69

AN ACT *to repeal* 15.347 (2) (a); *to renumber* 30.208 (5) (c) (intro.) and 281.36 (3p) (d) (intro.); *to amend* 15.347 (2) (b), 23.38 (1), 23.38 (2), 23.50 (1), 23.65 (1), 23.65 (3), 29.569 (3) (bm) 2., 30.208 (5) (bm), 281.36 (3p) (c) and 299.95; and *to create* 23.38 (1m), 30.208 (5) (c) 2m., 281.36 (3p) (d) 2m., 281.36 (14) (e) and 281.36 (14) (f) of the statutes; **relating to:** a citation procedure applicable to wetland discharge violations, sturgeon spearing license issuance period, electronic methods for reporting natural resource and environmental law violations, publication of class 1 notices, and membership on the Dry Cleaner Environmental Response Council.

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

SECTION 1. 15.347 (2) (a) of the statutes is repealed.

SECTION 2. 15.347 (2) (b) of the statutes is amended to read:

15.347 (2) (b) ~~Two~~ Three members representing dry cleaning operations with annual gross receipts of at least \$200,000.

SECTION 3. 23.38 (1) of the statutes is amended to read:

23.38 (1) The department shall maintain a toll-free telephone number ~~at department headquarters~~ to receive reports of violations of any statute or administrative rule that the department enforces or administers. The department shall relay these reports to the appropriate warden or officer for investigation and enforcement action. The department shall publicize the toll-free telephone number as widely as possible in the state.

SECTION 4. 23.38 (1m) of the statutes is created to read:

23.38 (1m) In addition to the toll-free telephone number under sub. (1), the department may establish additional electronic methods to receive reports of viola-

tions of any statute or administrative rule that the department enforces or administers.

SECTION 5. 23.38 (2) of the statutes is amended to read:

23.38 (2) The department shall maintain records ~~which that~~ permit the release of information provided by informants while protecting the identity of the informant. Any records ~~maintained by the department which received under this section~~ that relate to the identity of informants shall be only for the confidential use of the department in the administration of this section, unless the informant expressly agrees to release the records. Appearance in court as a witness shall not be considered consent by an informant to release confidential records ~~maintained by the department received under this section.~~

SECTION 6. 23.50 (1) of the statutes is amended to read:

23.50 (1) The procedure in ss. 23.50 to 23.85 applies to all actions in circuit court to recover forfeitures, plus costs, fees, and surcharges imposed under ch. 814, for violations of ss. 77.09, 90.21, 134.60, 167.10 (3), 167.31 (2), 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81, and 299.64 (2),

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

subch. VI of ch. 77, this chapter, and chs. 26 to 31, ch. 169, and ch. 350, and any administrative rules promulgated thereunder, violations specified under s. 280.98 (2) or 285.86, violations of s. 281.36 if the department chooses to proceed under s. 281.36 (14) (f), violations of ch. 951 if the animal involved is a captive wild animal, violations of rules of the Kickapoo reserve management board under s. 41.41 (7) (k), violations to which s. 299.85 (7) (a) 2. or 4. applies, or violations of local ordinances enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77.

SECTION 7. 23.65 (1) of the statutes is amended to read:

23.65 (1) When it appears to the district attorney that a violation of s. 90.21, 134.60, 281.36, 281.48 (2) to (5), 283.33, 285.57 (2), 285.59 (2), (3) (c) and (4), 287.07, 287.08, 287.81 or 299.64 (2), this chapter or ch. 26, 27, 28, 29, 30, 31, 169, or 350, or any administrative rule promulgated pursuant thereto, a violation specified under s. 285.86, or a violation of ch. 951, if the animal involved is a captive wild animal, has been committed the district attorney may proceed by complaint and summons.

SECTION 8. 23.65 (3) of the statutes is amended to read:

23.65 (3) If a district attorney refuses or is unavailable to issue a complaint, a circuit judge, after conducting a hearing, may permit the filing of a complaint if he or she finds there is probable cause to believe that the person charged has committed a violation of s. 281.36, 287.07, 287.08 or 287.81, this chapter or ch. 26, 27, 28, 29, 30, 31 or 350 or a violation specified under s. 285.86. The district attorney shall be informed of the hearing and may attend.

SECTION 9. 29.569 (3) (bm) 2. of the statutes is amended to read:

29.569 (3) (bm) 2. A person who is a resident and who has attained the age of 14 12 during that period.

SECTION 10. 30.208 (5) (bm) of the statutes is amended to read:

30.208 (5) (bm) For the purpose of determining the date on which notice is provided under this subsection, the date of the notice shall be the date on which the department first publishes the notice on its Internet Web site, ~~unless the department delegates to the applicant under par. (c) the requirement to provide notice. If the department delegates to the applicant the requirement to provide notice, the date of the notice shall be the date on which the department first publishes the notice on its Internet Web site or 10 days after the date on which the department receives satisfactory proof of publication of a class 1 notice from the applicant, whichever is later.~~

SECTION 11. 30.208 (5) (c) (intro.) of the statutes is renumbered 30.208 (5) (c) 1m. (intro.).

SECTION 12. 30.208 (5) (c) 2m. of the statutes is created to read:

30.208 (5) (c) 2m. If, under subd. 1m., the department delegates to an applicant the requirement to provide notice under sub. (3) by publishing a class 1 notice under ch. 985, the applicant may in lieu of publishing the class 1 notice request that the department publish the class 1 notice. The department shall charge the applicant a fee for publishing the class 1 notice in an amount that equals the average cost to the department for publishing under this chapter class 1 notices under ch. 985.

SECTION 13. 281.36 (3p) (c) of the statutes is amended to read:

281.36 (3p) (c) For the purpose of determining the date on which notice is provided under this subsection, the date of the notice shall be the date on which the department first publishes the notice on its Internet Web site, ~~unless the department delegates to the applicant under par. (d) the requirement to provide notice. If the department delegates to the applicant the requirement to provide notice, the date of the notice shall be the date on which the department first publishes the notice on its Internet Web site or 10 days after the date on which the department receives satisfactory proof of publication of a class 1 notice from the applicant, whichever is later.~~

SECTION 14. 281.36 (3p) (d) (intro.) of the statutes is renumbered 281.36 (3p) (d) 1m. (intro.).

SECTION 15. 281.36 (3p) (d) 2m. of the statutes is created to read:

281.36 (3p) (d) 2m. If, under subd. 1m., the department delegates to an applicant the requirement to provide notice under sub. (3m) by publishing a class 1 notice under ch. 985, the applicant may in lieu of publishing the class 1 notice request that the department publish the class 1 notice. The department shall charge the applicant a fee for publishing the class 1 notice in an amount that equals the average cost to the department for publishing under this chapter class 1 notices under ch. 985.

SECTION 16. 281.36 (14) (e) of the statutes is created to read:

281.36 (14) (e) Each day of a continuing violation is a separate offense.

SECTION 17. 281.36 (14) (f) of the statutes is created to read:

281.36 (14) (f) The department may follow the procedures for the issuance of a citation under ss. 23.50 to 23.99 to collect a forfeiture for a violation of this section.

SECTION 25. 299.95 of the statutes, as affected by 2013 Wisconsin Act 1, is amended to read:

299.95 Enforcement; duty of department of justice; expenses. The attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except ss. 285.57, 285.59, and 299.64, and all rules, special orders, licenses, plan approvals, permits, and water quality certifications of the department, except those promulgated or issued under ss. 285.57, 285.59, and 299.64 and except as provided in ss. 281.36 (14) (f), 285.86 and 299.85 (7)

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(am). Except as provided in s. 295.79 (1), the circuit court for Dane county or for any other county where a violation occurred in whole or in part has jurisdiction to enforce chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan approval, permit, or certification by injunctive and other relief appropriate for enforcement. For purposes of this proceeding where chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan approval, permit or certifica-

tion prohibits in whole or in part any pollution, a violation is considered a public nuisance. The department of natural resources may enter into agreements with the department of justice to assist with the administration of chs. 281 to 285 and 289 to 295 and this chapter. Any funds paid to the department of justice under these agreements shall be credited to the appropriation account under s. 20.455 (1) (k).
