

# STATEMENT OF SCOPE

## Department of Safety and Professional Services

**Rule No.:** SPS 30-35

**Relating to:** Electric weapons

**Rule Type:** Permanent

### 1. Detailed description of the objective of the proposed rule:

The objective of the proposed rule will be to review and possibly revise chs. SPS 30-35 as necessary to clarify that an individual with a permit to carry a firearm under ch. SPS 34 may also carry an electric weapon. Further, the department will consider creating a definition for “electric weapon” and make other changes to the rules relating to private security and private detectives necessary to bring the rules into conformity with the statutory changes enacted by 2019 Wisconsin Act 87. Finally, the rules will be reviewed to ensure they conform with current drafting standards, and to improve the readability of the rules as necessary.

### 2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

This rule is necessary to ensure the department rules relating to private security and private detectives reflect the current state of Wisconsin law, including recent changes enacted in 2019 Wisconsin Act 87. Failure to review and potentially clarify the rules could result in stakeholder confusion as to the legality of carrying an electric weapon while on duty as a private security person or private detective.

### 4. Detailed explanation of statutory authority for the rule:

Section 227.11 (2) (a), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Section 440.26 (1) (b), Stats., “The department may promulgate rules specifying activities in which a person may engage without obtaining a license or permit under this section.”

Section 440.26 (3m), Stats., “The department shall promulgate rules relating to the carrying of dangerous weapons by a person who holds a license or permit issued under this section or who is employed by a person licensed under this section. The rules shall meet the minimum requirements specified in 15 USC 5902 (b) and shall allow all of the following:

(a) A person who is employed in this state by a public agency as a law enforcement officer to carry a concealed firearm if s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.

- (b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to carry a concealed firearm if s. 941.23 (2) (b) 1. to 3. applies.
- (c) A former officer, as defined in s. 941.23 (1) (c), to carry a concealed firearm if s. 941.23 (2) (c) 1. to 7. applies.
- (d) A licensee, as defined in s. 175.60 (1) (d), or an out-of-state licensee, as defined in s. 175.60 (1) (g), to carry a concealed weapon as permitted under s. 175.60.”

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :**

The staff time needed to develop the rules is expected to be about 80 hours. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

**6. List with description of all entities that may be affected by the proposed rule :**

Private security persons or detectives and private security or detective agencies.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :**

15 U.S.C. s. 5902 allows armored car crew members to carry a firearm in any state if they meet their state’s requirements to carry a firearm while on duty. Section 440.26 (3m) requires the department to promulgate rules relating to carrying dangerous weapons that, at a minimum, comply with the federal requirements in 15 U.S.C. s. 5902.

**8. Anticipated economic impact of implementing the rule :**

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

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Approved for Publication:

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Secretary

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Date Submitted