



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0248/1
ZDW:ahc

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO ASSEMBLY BILL 649**

January 16, 2018 - Offered by Representative KLEEFISCH.

1 **AN ACT to amend** 29.016 (1) (b), 29.016 (2) (intro.), 29.053 (3), 29.089 (2) (intro.),
2 29.091 (1), 29.091 (2) (intro.), 29.164 (2) (b), 29.173 (2) (a), 29.182 (3) (a), 29.182
3 (3) (b), 29.184 (3) (am), 29.184 (3) (c), 29.185 (6) (a) 1., 29.185 (6) (b), 29.193 (2)
4 (cr) 4., 29.193 (2) (d), 29.211 (2), 29.304 (title), 29.311, 29.312 (2), 29.314 (3) (b)
5 4., 29.324 (1) (b), 29.324 (1) (d), 29.341 (1), 29.345, 29.592 (1) (intro.), 29.621 (4)
6 (intro.), 29.927 (6g), 29.971 (12) and 66.0409 (1) (a); and **to create** 29.001 (5),
7 29.001 (7), 29.014 (1u), 29.304 (6) and 29.314 (6m) of the statutes; **relating to:**
8 hunting with an airgun, providing an exemption from emergency rule
9 procedures, granting rule-making authority, and providing a criminal penalty.

Analysis by the Legislative Reference Bureau

Under this substitute amendment, a person may hunt an animal with an airgun in a season open to hunting that animal with a firearm. The substitute amendment defines “airgun” as a weapon originally manufactured to expel one or more projectiles by the expansion of compressed air, including an airbow. “Airbow” is defined as a weapon originally designed to fire an arrow by the expansion of compressed air.

Under current law, the Department of Natural Resources is authorized to establish open and closed seasons for the hunting of wild animals. DNR issues hunting licenses that authorize the hunting of specified animals and those licenses specify the type of weapon that may be used when hunting under those licenses.

Under the substitute amendment, if DNR establishes an open season for hunting an animal with a firearm, the season must also be open for hunting that animal with an airgun. The substitute amendment also provides that each license that currently authorizes the hunting of an animal with a firearm also authorizes the hunting of that animal with an airgun.

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

1 **SECTION 1.** 29.001 (5) of the statutes is created to read:

2 29.001 (5) “Airbow” means a weapon originally designed to fire an arrow by the
3 expansion of compressed air.

4 **SECTION 2.** 29.001 (7) of the statutes is created to read:

5 29.001 (7) “Airgun” means a weapon originally manufactured to expel one or
6 more projectiles by the expansion of compressed air. “Airgun” includes an airbow.

7 **SECTION 3.** 29.014 (1u) of the statutes is created to read:

8 29.014 (1u) (a) If the department establishes an open season for hunting an
9 animal with a firearm, the season shall also be open for hunting that animal with an
10 airgun.

11 (b) The department may promulgate rules limiting the types of airguns that
12 may be used to hunt specific species during particular hunting seasons. If the
13 department promulgates rules under this paragraph, the department shall allow the
14 use of airguns and airgun ammunition that are similar to permitted firearms and
15 firearm ammunition with regards to effectiveness for hunting.

16 **SECTION 4.** 29.016 (1) (b) of the statutes is amended to read:

1 29.016 (1) (b) Except as provided in sub. (2), establish a fall open season for
2 hunting deer with firearms and airguns that begins before the Saturday
3 immediately preceding the 4th Thursday in November.

4 **SECTION 5.** 29.016 (2) (intro.) of the statutes is amended to read:

5 29.016 (2) (intro.) Subsection (1) (b) does not prohibit the department from
6 promulgating a rule that establishes a fall open season for hunting deer with
7 firearms and airguns that begins before the Saturday immediately preceding the 4th
8 Thursday in November if any of the following applies:

9 **SECTION 6.** 29.053 (3) of the statutes is amended to read:

10 29.053 (3) The department may modify any requirement of this chapter or
11 rules promulgated under it, establish special seasons, authorize the use of special
12 equipment or take any other action in order to provide additional hunting and fishing
13 opportunities for persons who are physically disabled or visually handicapped. The
14 department may limit the number of persons involved, except that if the department
15 establishes a special season for hunting deer with firearms and airguns for persons
16 who are physically disabled, the season shall be open to persons who have been
17 issued a Class D permit under s. 29.193 (2).

18 **SECTION 7.** 29.089 (2) (intro.) of the statutes is amended to read:

19 29.089 (2) (intro.) No person may have in his or her possession or under his or
20 her control a firearm or airgun on land located in state fish hatcheries unless the
21 firearm or airgun is unloaded and enclosed within a carrying case. This subsection
22 does not apply to any of the following:

23 **SECTION 8.** 29.091 (1) of the statutes is amended to read:

24 29.091 (1) No person may hunt or trap within any wildlife refuge established
25 under s. 23.09 (2) (b) or 29.621 (1), or, except as provided in sub. (2), have possession

1 or control of any gun, firearm, airgun, bow, or crossbow unless the gun or firearm,
2 or airgun is unloaded, the bow or crossbow is unstrung, and the gun, firearm, airgun,
3 bow, or crossbow is enclosed within a carrying case. The taking of predatory game
4 birds and animals shall be done as the department directs. All state wildlife refuge
5 boundary lines shall be marked by posts placed at intervals of not over 500 feet and
6 bearing signs with the words "Wisconsin Wildlife Refuge".

7 **SECTION 9.** 29.091 (2) (intro.) of the statutes is amended to read:

8 29.091 (2) (intro.) The prohibition in sub. (1), as it relates to the possession or
9 control of a loaded or unencased gun or firearm, or airgun within a refuge
10 established under s. 23.09 (2) (b), does not apply to any of the following:

11 **SECTION 10.** 29.164 (2) (b) of the statutes is amended to read:

12 29.164 (2) (b) *Type of hunting authorized.* A license issued under this section
13 authorizes hunting with a firearm, airgun, bow and arrow, or crossbow.

14 **SECTION 11.** 29.173 (2) (a) of the statutes is amended to read:

15 29.173 (2) (a) A resident deer hunting license authorizes the hunting of deer
16 with a firearm, airgun, bow and arrow, or crossbow.

17 **SECTION 12.** 29.182 (3) (a) of the statutes is amended to read:

18 29.182 (3) (a) A resident elk hunting license authorizes a resident of this state
19 to hunt elk with a firearm, airgun, bow and arrow, or crossbow.

20 **SECTION 13.** 29.182 (3) (b) of the statutes is amended to read:

21 29.182 (3) (b) A nonresident elk hunting license authorizes a nonresident of
22 this state to hunt elk with a firearm, airgun, bow and arrow, or crossbow.

23 **SECTION 14.** 29.184 (3) (am) of the statutes is amended to read:

1 29.184 (3) (am) *Evidence of bear hunting.* The fact that a person is observing
2 a bear while possessing a firearm or airgun is not sufficient evidence to prove that
3 the person holding the firearm or airgun is hunting bear.

4 **SECTION 15.** 29.184 (3) (c) of the statutes is amended to read:

5 29.184 (3) (c) *Type of hunting authorized.* A Class A bear license authorizes
6 hunting with a firearm, airgun, bow and arrow, or crossbow.

7 **SECTION 16.** 29.185 (6) (a) 1. of the statutes is amended to read:

8 29.185 (6) (a) 1. A firearm or airgun, as authorized under par. (b), a bow and
9 arrow, or a crossbow.

10 **SECTION 17.** 29.185 (6) (b) of the statutes is amended to read:

11 29.185 (6) (b) *Firearms and ammunition.* A wolf harvesting license authorizes
12 hunting with a rifle, a muzzle-loading firearm, a handgun, a shotgun that fires slugs
13 or shotshells, an airgun, and any other firearm that is loaded with a single slug or
14 ball. A wolf harvesting license authorizes hunting with shot that is larger than size
15 BB.

16 **SECTION 18.** 29.193 (2) (cr) 4. of the statutes is amended to read:

17 29.193 (2) (cr) 4. A person holding a current resident or nonresident deer
18 hunting license and a Class D permit may hunt deer of either sex with a firearm or
19 airgun only during a special season established by the department that is open for
20 hunting deer with firearms by disabled persons who hold a permit under this section.

21 **SECTION 19.** 29.193 (2) (d) of the statutes is amended to read:

22 29.193 (2) (d) 1. A holder of a Class A or Class B permit may be accompanied
23 by a person who is not eligible to apply for a Class A or Class B permit. The
24 accompanying person may not hunt or carry a firearm, airgun, bow, or crossbow
25 unless that person has been issued the appropriate approval to do so. The assistance

1 rendered by an accompanying person who has not been issued the appropriate
2 approval is limited to field dressing, tagging, and retrieving game for the permit
3 holder.

4 2. A holder of a Class C permit shall be accompanied by a person who is not
5 eligible to apply for a permit under this section. The accompanying person may not
6 hunt or carry a firearm, airgun, bow, or crossbow unless the person has been issued
7 the appropriate approval to do so. The assistance rendered by an accompanying
8 person may include sighting the firearm, airgun, bow, or crossbow, identifying the
9 game, and field dressing, tagging, and retrieving game for the permit holder.

10 3. A holder of a Class D permit may use an adaptive device, as authorized by
11 the department by rule, to facilitate the use of a firearm or an airgun and may be
12 accompanied by a person who is not eligible to apply for a permit under this section.
13 The accompanying person may not hunt or carry a firearm, airgun, bow, or crossbow
14 unless that person has been issued the appropriate approval to do so. The assistance
15 rendered by an accompanying person who has not been issued the appropriate
16 approval is limited to field dressing, tagging, and retrieving game for the permit
17 holder and any other assistance authorized by the department by rule.

18 **SECTION 20.** 29.211 (2) of the statutes is amended to read:

19 29.211 (2) AUTHORIZATION. A nonresident deer hunting license authorizes the
20 hunting of deer with a firearm, airgun, bow and arrow, or crossbow.

21 **SECTION 21.** 29.304 (title) of the statutes is amended to read:

22 **29.304 (title) Restrictions on hunting and use of firearms and airguns**
23 **by persons under 16 years of age.**

24 **SECTION 22.** 29.304 (6) of the statutes is created to read:

1 29.304 (6) RULES. The department may promulgate rules specifying the types
2 of airguns to which this section applies.

3 **SECTION 23.** 29.311 of the statutes is amended to read:

4 **29.311 Shotshell restrictions.** No person may hunt waterfowl or coots with
5 any firearm or airgun using any shotshell classified by the federal government as
6 toxic or harmful to wildlife or the environment.

7 **SECTION 24.** 29.312 (2) of the statutes is amended to read:

8 29.312 (2) The department may not promulgate or enforce a rule that prohibits
9 a person from sighting a firearm or airgun on land owned or leased by that person
10 or a member of that person's immediate family during the 24-hour period prior to
11 the opening date for hunting deer with firearms in any area where there is an open
12 season for hunting deer with firearms.

13 **SECTION 25.** 29.314 (3) (b) 4. of the statutes is amended to read:

14 29.314 (3) (b) 4. To the holder of a Class C permit issued under s. 29.193 (2) (c)
15 4. who uses a laser sighting device while hunting with a firearm, airgun, bow and
16 arrow, or crossbow.

17 **SECTION 26.** 29.314 (6m) of the statutes is created to read:

18 29.314 (6m) RULES. The department may promulgate rules specifying the
19 types of airguns to which the general restrictions under subs. (3) (a) and (4) (a) apply.

20 **SECTION 27.** 29.324 (1) (b) of the statutes is amended to read:

21 29.324 (1) (b) "Group deer hunting party" means 2 or more hunters hunting in
22 a group all using firearms or airguns, each of whom holds an individual license to
23 hunt deer.

24 **SECTION 28.** 29.324 (1) (d) of the statutes, as created by 2017 Wisconsin Act 61,
25 is amended to read:

1 29.324 (1) (d) “Youth deer license” means a license that is issued by the
2 department to a person who is under the age of 18 and that authorizes the hunting
3 of deer with a firearm or airgun.

4 **SECTION 29.** 29.341 (1) of the statutes is amended to read:

5 29.341 (1) Any person who, while hunting any wild animal or bird, discharges
6 a firearm, airgun, or arrow, and by that discharge injures or kills another person,
7 shall immediately give his or her name and address to the injured person, render
8 assistance to the injured person and obtain immediate medical or hospital care for
9 the injured person, and immediately report the injury or death to the sheriff or police
10 of the locality in which the shooting took place.

11 **SECTION 30.** 29.345 of the statutes is amended to read:

12 **29.345 Hunting, fishing or trapping accident; failure to report. (1)**

13 Every person who has caused or been involved in an accident in which a person has
14 been injured by discharge of a firearm, airgun, or arrow while hunting, fishing, or
15 trapping, or inflicted an injury upon himself or herself with a firearm, airgun, or with
16 an arrow while hunting, fishing, or trapping, shall render a report to the department
17 at any of its field offices within 10 days after the injury unless the person is physically
18 incapable of making the required report, in which event the person or persons
19 involved in the accident shall designate an agent to file the report within the
20 specified time.

21 (2) Any person who is involved in an accident with a firearm, airgun, or arrow
22 while hunting, fishing, or trapping, and who fails to submit the report required by
23 this section, shall forfeit not more than \$50. In addition, the court may revoke any
24 license issued to the person under this chapter and may further provide that no

1 license shall be issued to the person under this chapter for a fixed period of time
2 specified by the court.

3 **SECTION 31.** 29.592 (1) (intro.) of the statutes, as affected by 2017 Wisconsin
4 Act 62, is amended to read:

5 29.592 (1) (intro.) A person may hunt in this state without obtaining a
6 certificate of accomplishment under s. 29.591 and may, while hunting, possess or
7 control a firearm, or an airgun to which s. 29.304 applies under rules promulgated
8 by the department, if all of the following apply:

9 **SECTION 32.** 29.621 (4) (intro.) of the statutes is amended to read:

10 29.621 (4) PROTECTION. (intro.) Except as provided in s. 29.091 (1), no owner
11 of a wildlife refuge, and no other person, may hunt or trap within the boundaries of
12 any wildlife refuge or have in his or her possession or under his or her control in the
13 wildlife refuge a gun, firearm, airgun, bow, or crossbow, unless the gun ~~or~~, firearm,
14 or airgun is unloaded, the bow or crossbow is unstrung, and the gun, firearm, airgun,
15 bow, or crossbow is enclosed within a carrying case. This subsection, as it relates to
16 the possession or control of a loaded or unencased firearm or airgun, does not apply
17 to any of the following:

18 **SECTION 33.** 29.927 (6g) of the statutes is amended to read:

19 29.927 (6g) Any lamp, light, gun, firearm, airgun, ammunition, bow, crossbow,
20 bolt, or arrow used in violation of this chapter or s. 167.31 or any rules promulgated
21 under s. 167.31.

22 **SECTION 34.** 29.971 (12) of the statutes is amended to read:

23 29.971 (12) In addition to any other penalty for violation of this chapter or any
24 department order made under this chapter, the court may revoke any or all approvals
25 granted under this chapter for a period of up to 3 years. If a person is convicted of

1 reckless or highly negligent conduct in the operation or handling of a firearm, airgun,
2 or bow and arrow in violation of s. 940.08, 940.24, or 941.20 and either death or bodily
3 harm to another results from that violation, the court shall revoke every approval
4 issued to that person under this chapter and shall provide a fixed period during
5 which no new approval may be issued to the person. If no death or bodily harm to
6 another results from the violation, the court may revoke any approval issued to that
7 person under this chapter and may provide a fixed period during which no new
8 approval may be issued to the person.

9 **SECTION 35.** 66.0409 (1) (a) of the statutes is amended to read:

10 66.0409 (1) (a) "Firearm" has the meaning given in s. 167.31 (1) (c) and includes
11 an airgun, as defined in s. 29.001 (7).

12 **SECTION 36. Nonstatutory provisions.**

13 (1) The department of natural resources may use the procedure under section
14 227.24 of the statutes to promulgate emergency rules under sections 29.014 (1u) (b),
15 29.304 (6), and 29.314 (6m) of the statutes for the period before the date on which
16 permanent rules under sections 29.014 (1u) (b), 29.304 (6), and 29.314 (6m) of the
17 statutes take effect. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,
18 emergency rules promulgated under this subsection remain in effect until the
19 permanent rules take effect. Notwithstanding section 227.24 (1) (a) and (3) of the
20 statutes, the department of natural resources is not required to provide evidence that
21 promulgating rules under this subsection as emergency rules is necessary for the
22 preservation of the public peace, health, safety, or welfare and is not required to
23 provide a finding of emergency for rules promulgated under this subsection.

24 **SECTION 37. Effective dates.** This act takes effect on September 1, 2018,
25 except as follows:

