



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-1295/P1  
JPC&MED:emw

DOA:.....Mott, BB0266 - DSPTS Legal Authority for Licensure Review

**FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**SAFETY AND PROFESSIONAL SERVICES**

**PROFESSIONAL LICENSURE**

***Reviews of criminal records***

This bill requires DSPTS, when conducting an investigation of the arrest or conviction record of a credential applicant, to review and obtain information to determine the circumstances of each case or offense, except that the bill allows DSPTS, in its discretion, to complete its investigation of an arrest or conviction record without reviewing the circumstances of certain types of offenses specified in the bill. These offenses include certain first offense operating while intoxicated and related violations; certain underage alcohol violations; and minor, nonviolent ordinance violations, as determined by DSPTS.

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

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

**SECTION 1.** 440.03 (13) (br) of the statutes is created to read:

440.03 (13) (br) When conducting an investigation of an arrest or conviction record under par. (a) or (bm), the department shall review and obtain information to determine the circumstances of each case or offense, except that the department may, in its discretion, complete its investigation of an arrest or conviction record without reviewing the circumstances of any of the following types of violations:

1. If the violation occurred more than 5 years before the application date, a first violation of s. 346.63 (1) (a), (am), or (b) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63 (1) (a), (am), or (b) or the law of another jurisdiction prohibiting driving or operating a motor vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog, or a combination thereof or under the influence of any drug that renders the person incapable of safely driving, as those or substantially similar terms are used in that jurisdiction's laws.

2. A violation of s. 125.07 (4) (a) or (b) or a local ordinance that strictly conforms to s. 125.07 (4) (a) or (b) or of a substantially similar law of another jurisdiction.

3. A minor, nonviolent ordinance violation, as determined by the department.

**SECTION 9138. Nonstatutory provisions; Safety and Professional Services.**

(1) DSPS CREDENTIAL INVESTIGATIONS; EMERGENCY RULES. Using the procedure under s. 227.24, the department of safety and professional services and any credentialing board, as defined in s. 440.01 (2) (bm), may promulgate rules that are necessary to implement s. 440.03 (13) (br). Notwithstanding s. 227.24 (1) (a) and (3), the department or credentialing board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the

preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until July 1, 2025, or the date on which permanent rules take effect, whichever is sooner, and the effective period may not be further extended under s. 227.24 (2).

\*\*\*NOTE: The language in this draft is based upon 2019 SB 746 and 2021 AB 1171, but I omitted subdivision 4., which did not appear in your request, and added references to arrests. In addition, the Legislative Study Committee on Occupational Licensing has a version of this proposal for which introduction was recommended, 2023 LRB-0363. Let me know if you'd like a copy of the committee's proposal.

**(END)**