



2005 ASSEMBLY BILL 279

March 30, 2005 - Introduced by Representatives PETTIS, GUNDERSON, MUSSER, AINSWORTH, ALBERS, HAHN, HINES, KESTELL, KREIBICH, PRIDEMORE and TOWNSEND, cosponsored by Senator STEPP. Referred to Committee on Natural Resources.

1 **AN ACT** *to amend* 29.921 (5) and 943.13 (1m) (intro.); and *to create* 29.921 (1m),
2 29.984, 814.75 (13m) and 814.80 (6m) of the statutes; **relating to:** the authority
3 of the Department of Natural Resources to enforce violations of the trespass
4 law, imposing a hunting and fishing trespass surcharge, and providing a
5 penalty.

Analysis by the Legislative Reference Bureau

Current law grants the Department of Natural Resources (DNR) and its wardens enforcement authority to enforce fish and game laws, laws relating to boating and snowmobiling, other conservation laws, and certain other laws relating to the use of dangerous weapons regardless of where the violations of any of these laws are committed. This bill expands this authority to cover violations of the land trespass law when the trespass is committed by a person engaged in an activity that relates to hunting or fishing.

This bill requires a court to calculate an amount to be imposed for a trespass violation that is committed by a person engaged in an activity related to hunting or fishing. Of the calculated amount, 35 percent is the forfeiture for the violation and 65 percent is a hunting and fishing trespass surcharge imposed for the violation. Each surcharge amount that is collected is deposited into the conservation fund. The forfeiture amount is deposited into the common school fund.

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

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

1 **SECTION 1.** 29.921 (1m) of the statutes is created to read:

2 29.921 **(1m)** TRESPASS. The department and its wardens may execute and serve
3 warrants and processes issued for a violation of s. 943.13, if the violation was done
4 while the person was engaged in an activity relating to hunting or fishing, in the
5 same manner as any constable may serve and execute the process; and may arrest,
6 with or without a warrant, any person detected in the actual violation, or whom the
7 warden has probable cause to believe is guilty of such a violation, and may take the
8 person before any court in the county where the violation was committed and make
9 a proper complaint. For the purpose of enforcing any of the laws of this state, any
10 warden may stop and board any boat and stop any vehicle, if the warden reasonably
11 suspects there is a violation of the law.

12 **SECTION 2.** 29.921 (5) of the statutes is amended to read:

13 29.921 **(5)** ADDITIONAL ARREST POWERS. In addition to the arrest powers under
14 ~~sub.~~ subs. (1) and (1m), a warden who has completed a program of law enforcement
15 training approved by the law enforcement standards board, has been certified as
16 qualified to be a law enforcement officer under s. 165.85 (4) (b) 1. and has complied
17 with any applicable requirements under s. 165.85 (4) (bn) 1. while on duty and in
18 uniform or on duty and upon display of proper credentials may assist another law
19 enforcement agency as defined under s. 165.83 (1) (b) including making an arrest at
20 the request of the agency, may arrest a person pursuant to an arrest warrant
21 concerning the commission of a felony or may arrest a person who has committed a

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1 crime in the presence of the warden. If the warden makes an arrest without the
2 presence of another law enforcement agency, the warden shall cause the person
3 arrested to be delivered to the chief of police or sheriff in the jurisdiction where the
4 arrest is made, along with the documents and reports pertaining to the arrest. The
5 warden shall be available as a witness for the state. A warden may not conduct
6 investigations for violations of state law except as authorized in ss. 23.11 (4), 29.924
7 (1) and 41.41 (12). A warden acting under the authority of this subsection is
8 considered an employee of the department and is subject to its direction, benefits and
9 legal protection. The authority granted in this section does not apply to county
10 conservation wardens or special conservation wardens.

11 **SECTION 3.** 29.984 of the statutes is created to read:

12 **29.984 Hunting and fishing trespass surcharge and forfeiture. (1)**

13 IMPOSITION OF SURCHARGE AND FORFEITURE. (a) If a court finds that a violation under
14 s. 943.13 that was committed by a person who was engaged in an activity relating
15 to hunting or fishing, the court shall calculate a penalty amount that consists of a
16 forfeiture and a hunting and fishing trespass surcharge, the total of which may not
17 exceed \$1,000. Of the calculated amount 35 percent shall be the forfeiture imposed
18 and 65 percent shall be a hunting and fishing trespass surcharge imposed under ch.
19 814.

20 (b) If a deposit is made for a violation to which this section applies, the person
21 making the deposit shall deposit a sufficient amount to include the forfeiture and the
22 hunting and fishing trespass surcharge imposed under this section. If the deposit
23 is forfeited, the amount of the hunting and fishing trespass surcharge shall be
24 submitted to the secretary of administration under s. 59.25 (3) (f) 2. If the forfeiture
25 is returned, the hunting and fishing trespass surcharge shall also be returned.

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1 **(2)** DEPOSIT OF HUNTING AND FISHING TRESPASS SURCHARGE. All moneys collected
2 from hunting and fishing trespass surcharges shall be deposited into the
3 conservation fund.

4 **SECTION 4.** 814.75 (13m) of the statutes is created to read:

5 814.75 (**13m**) Hunting and fishing trespass surcharge.

6 **SECTION 5.** 814.80 (6m) of the statutes is created to read:

7 814.80 (**6m**) Hunting and fishing trespass surcharge.

8 **SECTION 6.** 943.13 (1m) (intro.) of the statutes is amended to read:

9 943.13 (**1m**) (intro.) Whoever does any of the following is subject to a Class B
10 forfeiture, or the amount of the forfeiture calculated under s. 29.984 (1) (a):

11 **(END)**