



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5272/1
MED:cdc&cjs

2019 SENATE BILL 746

January 29, 2020 - Introduced by Senators KOOYENGA, JOHNSON, FEYEN, OLSEN and LARSON, cosponsored by Representatives QUINN, HAYWOOD, FIELDS, KULP, STEFFEN, VRUWINK, SKOWRONSKI, STUBBS, OHNSTAD, SPREITZER and BROSTOFF. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT** *to create* 440.03 (13) (br) of the statutes; **relating to:** investigations of
2 conviction records by the department of safety and professional services for
3 purposes of determining eligibility for credentials, extending the time limit for
4 emergency rule procedures, and providing an exemption from emergency rule
5 procedures.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Safety and Professional Services, when conducting an investigation of the 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 DSPS, in its discretion, to complete its investigation of a conviction record without reviewing the circumstances of certain types of offenses specified in the bill. These offenses include certain first offense operating while intoxicated (OWI) and related violations; certain underage alcohol violations; minor, nonviolent ordinance violations, as determined by DSPS; and certain nonviolent offenses, as determined by DSPS, for which the person was adjudicated delinquent under the juvenile justice law or a similar law of another state.

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For further information see the *state* 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.** 440.03 (13) (br) of the statutes is created to read:

2 440.03 (13) (br) When conducting an investigation of a conviction record under
3 par. (a) or (bm), the department shall review and obtain information to determine the
4 circumstances of each case or offense, except that the department may, in its
5 discretion, complete its investigation of a conviction record without reviewing the
6 circumstances of any of the following types of violations:

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

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

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

19 4. A nonviolent offense, as determined by the department, for which the person
20 was adjudicated delinquent under ch. 938 or a similar law of another state, and that
21 was committed 5 years or more before the application date.

SENATE BILL 746**1 SECTION 2. Nonstatutory provisions.**

2 (1) Using the procedure under s. 227.24, the department of safety and
3 professional services and any credentialing board, as defined in s. 440.01 (2) (bm),
4 may promulgate rules that are necessary to implement the changes in this act.
5 Notwithstanding s. 227.24 (1) (a) and (3), the department or credentialing board is
6 not required to provide evidence that promulgating a rule under this subsection as
7 an emergency rule is necessary for the preservation of the public peace, health,
8 safety, or welfare and is not required to provide a finding of emergency for a rule
9 promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),
10 emergency rules promulgated under this subsection remain in effect until May 1,
11 2022, or the date on which permanent rules take effect, whichever is sooner, and the
12 effective period may not be further extended under s. 227.24 (2).

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(END)