



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-0363/P3
JPC:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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, providing an exemption from emergency rule
5 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

6 **SECTION 1.** 440.03 (13) (br) of the statutes is created to read:
7 440.03 **(13)** (br) When conducting an investigation of an arrest or conviction
8 record under par. (a) or (bm), or of any other offense if the offense is reviewable by
9 the department or credentialing board that issues the credential, the department

1 shall review information provided by the applicant to determine the circumstances
2 of each case or offense, except that the department may, in its discretion, complete
3 its investigation without reviewing the circumstances of any of the following types
4 of violations:

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

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

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

17 4. If the violation occurred more than 5 years before the application date, a
18 nonviolent offense, as determined by the department, for which the person was
19 adjudicated delinquent under ch. 938 or a similar law of another state.

20 **SECTION 2. Nonstatutory provisions.**

21 (1) Using the procedure under s. 227.24, the department of safety and
22 professional services and any credentialing board, as defined in s. 440.01 (2) (bm),
23 may promulgate rules that are necessary to implement s. 440.03 (13) (br).
24 Notwithstanding s. 227.24 (1) (a) and (3), the department or credentialing board is
25 not required to provide evidence that promulgating a rule under this subsection as

1 an emergency rule is necessary for the preservation of the public peace, health,
2 safety, or welfare and is not required to provide a finding of emergency for a rule
3 promulgated under this subsection. Notwithstanding s. 227.24 (1) (c) and (2),
4 emergency rules promulgated under this subsection remain in effect until July 1,
5 2025, or the date on which permanent rules take effect, whichever is sooner, and the
6 effective period may not be further extended under s. 227.24 (2).

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(END)