



Legislative Fiscal Bureau

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November 30, 2005

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 26 and Senate Bill 33: Entering into the Wildlife Violator Compact

Assembly Bill 26 and Senate Bill 33 would authorize the Department of Natural Resources (DNR), on behalf of the state, to become a member of the wildlife violator compact.

Assembly Bill 26 was introduced on January 20, 2005, and referred to the Assembly Committee on Natural Resources. On July 20, 2005, Assembly Substitute Amendment 1 (as amended by Assembly Amendment 1) to the bill was adopted by the Committee on a vote of Ayes, 11; Noes, 0. The substitute amendment, as amended, was recommended for passage by the Committee on a vote of Ayes, 11; Noes, 0. On September 9, 2005, the bill was referred to the Joint Committee on Finance.

Senate Bill 33 was introduced on February 2, 2005, and referred to the Senate Committee on Natural Resources and Transportation. On October 20, 2005, Senate Substitute Amendment 1 (as amended by Senate Amendment 1) to the bill was adopted by the Committee on a vote of Ayes, 5; Noes, 0. The substitute amendment, as amended, was recommended for passage by the Committee on a vote of Ayes, 5; Noes, 0. On October 27, 2005, the bill was referred to the Joint Committee on Finance.

CURRENT LAW

Under current law, if a Wisconsin resident is apprehended for a wildlife violation, he or she may either be issued a citation or arrested, depending on the severity of the offense. If a resident is issued a citation, the law enforcement officer may mail the citation to the last known address of the individual, without requiring an immediate payment. In the event of an arrest, the resident may be required to post bail, or may be released on their own recognizance.

If an individual who is not a resident is apprehended for either a civil or criminal offense, the individual is detained and required to post bond. In the case of a civil offense, the amount of the bond is the amount of the forfeiture. The nonresident may choose to enter a plea of no contest, in which case the state retains the amount of the forfeiture, and the matter is considered resolved. In the case of certain offenses, this resolution may include the revocation of certain fish and game license privileges. However, if a nonresident is arrested for a criminal offense, posts bond, and does not appear in court, the individual will forfeit the amount of the bond, but the State does not have jurisdiction to compel the individual to appear, and does not in all cases have the ability to render a final judgment in the matter. As the conviction remains unresolved, no suspension of fish and game licensing privileges may be imposed.

SUMMARY OF THE SUBSTITUTE AMENDMENT

The two bills, as amended, are identical. Under both Senate Substitute Amendment 1 and Assembly Substitute Amendment 1 (the bills), DNR would be required to deny an application to issue or renew, or to suspend if already issued, all hunting and fishing approvals issued to a person who fails to respond to a summons, fails to appear on their court date without making a deposit and stipulating to a plea of no contest, or fails to appear before the court and is subject to a bench warrant. This suspension would remain in effect until the person resolves the matter with the court.

The bills would also permit an administrative appeal to the DNR, which would be limited to the issue of whether the person's failure to respond to the summons or to appear in court is sufficient to require DNR to refuse to issue or renew, or to suspend hunting and fishing approvals. (Senate Amendment 1 to SSA 1 and Assembly Amendment 1 to ASA 1 both correct a drafting error in this section.) In addition, the bills would allow citations for conservation law violations to be served by DNR on nonresidents by mail, as is currently allowed for violations by residents. [Legislative attorneys have suggested a technical modification to this section to clarify the procedures for a conservation warden to serve a complaint.]

Further, the bills would allow DNR (on behalf of the state) to enter into the multi-state wildlife violator compact. In order to enter the compact, the state must agree to abide by its terms and provisions, and the state's entrance is considered effective within 60 days of notice being given by the chairperson of the board of compact administrators or by the secretary of the board to participating states that the resolution from the participating state has been received. The state may withdraw from the compact 90 days after giving written notice to each of the other participating states.

The wildlife violator compact is a multi-state approach to the enforcement of hunting and fishing violations. Any suspension of fish and game license privileges resulting from an individual's failure to comply with a citation or summons and complaint in a member state will also be enforced by all other states participating in the compact. If a resident of a state that is participating in the compact is convicted of a fish and game violation in one of the member states, each compact state

is notified, and is required to treat the conviction as if it had occurred in that state for purposes of determining any applicable license restrictions or suspensions. Currently, there are 19 states participating in the compact: Arizona, California, Colorado, Georgia, Idaho, Indiana, Iowa, Maryland, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, South Dakota, Oregon, Utah, Washington, and Wyoming. At least five additional states are actively considering legislation to enter the compact, including Florida, Ohio, Pennsylvania, Kansas, and Tennessee.

If a violator apprehended in Wisconsin is not a resident of a state that participates in the compact, all current procedures would continue to apply. If the violator is a resident of a state that is participating in the compact, the conservation warden would issue a citation in the same manner as for a Wisconsin resident (the citation may be mailed to the individual's last known address, rather than requiring immediate payment of the forfeiture). Under the bills, any citation or summons that is issued to a person who violates fish and game regulations is required to include a notice that the person may be subject to a suspension of all hunting and fishing approvals if the person fails to appear in court. The compact prohibits any requirement for the nonresident violator to post a bond to secure an appearance before the court if that would not be required of a resident under the same circumstances, provided they are able to present adequate proof of identification. If the nonresident violator is either convicted of the violation or fails to pay the forfeiture or appear on the court date in the citation summons, the court or the district attorney informs DNR, and the Department is required to send this information to the accused's home state. The bills require DNR to develop procedures for communications between the Department, the district attorneys, and the clerks of court.

When the violator's home state receives the notice from DNR that the individual has failed to comply with a citation or summons, that state notifies the violator and suspends their home state hunting and fishing privileges until the Wisconsin DNR sends a notice of compliance. If the nonresident violator is convicted of a fish and game law violation in Wisconsin, the home state is required by the compact to treat the conviction as if it had occurred in the home state for purposes of determining the suspension of privileges. Each state in the compact notifies all other states in the compact when a suspension or a conviction occurs, and each participating state recognizes the suspension of license privileges (in the case of noncompliance with a citation or summons), or the conviction of any fish and game violations as though the violation had occurred in that state. For this reason, the suspension of license privileges for noncompliance will mean that license privileges are suspended in all participating compact states, while a conviction may result in the suspension of license privileges in some, but not all, participating states, depending on each state's laws regarding the penalty for certain fish and wildlife violations. The bills would require participating states to communicate suspension, compliance, and conviction information to other participating states in the form specified in the compact's manual.

The compact is overseen by a board of administrators, consisting of one representative from each participating state. Under the bills, the head of the state's licensing authority (in Wisconsin, the Secretary of DNR) would be responsible for appointing this individual. Each member of the board is entitled to one vote, and no action of the board may be considered binding unless the action is

taken at a meeting at which a majority of the total number of the board's votes are cast in favor of the action. Board action may only occur at a meeting at which the majority of the participating states are represented under the bills. The board elects a chair and vice chair annually from its membership. Under the bills, the board may accept donations for the purpose of carrying out the provisions of the compact, and may contract with or accept services from any governmental agency, individual, firm, corporation, or private nonprofit organization or institution. The board formulates procedures and develops forms and documents for the purpose of administering the compact, and makes these resources available in the form of a manual.

The compact may be amended. Amendments must be initiated by one or more participating states, and presented in resolution form to the chairperson of the board. The unanimous agreement of participating compact states is required to adopt any amendment, which becomes effective 30 days after the date of the last endorsement. Participating states are required to respond to the compact chairperson within 120 days after the receipt of a proposed amendment. Amendments proposed to change local law by the compact administrators must be reviewed and approved by the Legislature, under the bills.

FISCAL EFFECT

Fiscal notes submitted by both the District Attorney's office and the Department of Justice indicated that entering the wildlife violator compact is unlikely to increase agency costs. The Department of Corrections noted that the bills would not increase DOC costs, and further could potentially result in some savings to counties, as nonresidents who commit wildlife violations in Wisconsin would no longer need to be held in county jails pending bail payments or court appearances. However, an accurate estimate of these savings would be difficult to quantify. The fiscal note from the State Public Defender (SPD) indicated that state costs could increase if entering the compact led to Wisconsin residents being charged with an increased number of fish and game crimes. However, as the bills do not include incentives or enhancements that would increase the number of arrests or citations issued to Wisconsin residents, but instead creates an agreement for states to recognize the suspension of privileges occurring in other compact states, this may not be a concern.

Based on the average number of fish and game violations over the last four fiscal years (8,800 annually) and the experiences of other states that are participating in the compact, DNR estimates that it may require approximately 160 staff hours per month (almost 1.0 FTE) and \$1,000 per month in increased administrative costs to maintain and update data relating to the compact, for annual estimated costs of \$50,900. Department duties associated with compact compliance include notification of other states' natural resources agency when an out-of-state resident from a state enrolled in the compact has failed to comply with a citation for a wildlife violation or been convicted of a wildlife violation; notifying the violator and initiating an action to suspend the violator's fish and game approvals and privileges; and updating records to reflect violations committed by Wisconsin residents in other states. In addition to maintaining records of wildlife

violations committed by residents of other compact states and overseeing the transfer of this information among member states, the Department would also be responsible for communication with county clerks, with other member states, and with the compact's Board.

In addition to data maintenance and management costs, some one-time costs relating to information technology updates are expected. Based on prior change order requests, it is expected that programming costs to add a new category of revocations and suspensions to the Department's automated licensing system (ALIS) may cost approximately \$5,000. Further, incoming information from DNR law enforcement citations for wildlife violations would need to be incorporated into the licensing system on an ongoing basis. The initial development of this technology may cost up to \$10,000. Further, it is expected that some modifications would need to be made to the Department's current law enforcement citations database in order to accommodate updates on revocations and suspensions from fellow compact member states, which may total up to \$15,000. Additional modifications to allow the Department's citations system to exchange information with the county Clerk of Courts system in order to add, modify, and delete revocation or suspension information in a timely manner as cases are resolved is estimated by DNR to cost up to \$30,000. Finally, DNR would also need to modify the TYME server (a collaborative law enforcement records system used by enforcement staff in the field) to allow the Department's arrest and revocation records to be available nationwide for other states who are in the compact. Programming costs for this could reach \$15,000. Therefore, DNR estimates up to \$75,000 may be required in one-time information technology modification costs.

While DNR anticipates additional costs in terms of staff time to manage data related to the compact and technology upgrades to ensure compatibility with participating states and other government agencies, the bill would not provide additional expenditure authority. Therefore, funds for these purposes would need to be reallocated from existing DNR appropriations, or incorporated in a future funding request.

Additional efficiencies may be expected as a result of the bills. The time required for processing violations committed by nonresidents who reside in participating states would be reduced, as the compact would allow wardens to mail citations, rather than complete an arrest and booking, allowing more time for patrol and surveillance activities. Allowing nonresidents to be cited, rather than incarcerated pending the posting of a bond is expected to reduce the demands that wildlife offenders place on the courts and on county jail facilities. Finally, the ability of DNR (and cooperating states) to suspend license privileges as a result of an individual's failure to appear, rather than only in the case of a conviction, encourages individuals to appear in court and resolve outstanding charges. Alternatively, the Department may face an increase in the number of suspensions and revocations among fish and game license customers, decreasing revenues to the fish and wildlife account. Currently, over 6,000 individuals have had license privileges revoked or suspended as a result of the compact. This number is expected to increase annually as new offenses are committed, and as new states enter the compact.

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