

**CERTIFICATE**

**STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING**

**TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:**

*I, Marlene A. Cummings, Secretary, Wisconsin Department of Regulation and Licensing and custodian of the official records of the Department of Regulation and Licensing, hereby certify that the annexed rules were duly approved and adopted by the Department of Regulation and Licensing on the 15<sup>th</sup> day of November, 2000.*

*I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.*

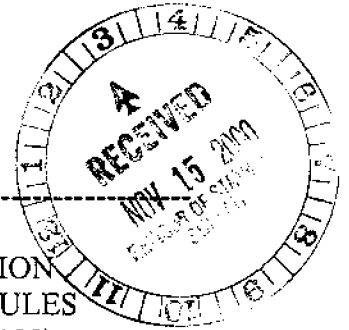
*IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 1400 East Washington Avenue, Madison, Wisconsin this 15<sup>th</sup> day of November, 2000.*



*Marlene A. Cummings*  
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**Marlene A. Cummings, Secretary,  
Department of Regulation and  
Licensing**

00-100

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING



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IN THE MATTER OF RULE-MAKING : ORDER OF THE  
PROCEEDINGS BEFORE THE : DEPARTMENT OF REGULATION  
DEPARTMENT OF REGULATION : AND LICENSING ADOPTING RULES  
AND LICENSING : (CLEARINGHOUSE RULE 00-100)  
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ORDER

An order of the Department of Regulation and Licensing to repeal RL 34.015 (5); to renumber and amend RL 34.04 (2) (a); to amend RL 30.01 (9), 31.03 (1) (b), 31.035 (1) (b), 31.036 (1) (b), 32.03, ch. RL 33 (title), 33.05, 34.01 (4), 34.02 (1), 34.04 (2) (intro.), (b), (5) and (6) and 35.01 (1); to repeal and recreate RL 31.05; and to create RL 30.01 (10g), 31.02 (1) (b) 3., (2) (d) and (3) (d), 31.03 (1m), 31.035 (1m), 31.036 (1m), 33.025, 33.06 (2) (d), 34.04 (1m), (2) (a) 1., 2., 3. and (7) and 35.01 (4m), relating to private detectives, private detective agencies and private security personnel.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 440.26 (2) (c), (3m) and (6), Stats.

Statutes interpreted: ss. 440.03 (13), 440.26 and 440.974 (2), Stats.

This rule proposal relates to the regulation of private detectives, private detective agencies and private security personnel, as indicated in specific sections of the rules. "License" refers to private detectives and private detective agencies. "Permit" refers to private security personnel. "Credential" refers to both. This rule proposal includes the following changes:

SECTION 1 makes a technical change that removes unnecessary words from the definition of "original private detective license."

SECTION 2 defines "peace officer."

SECTION 3 addresses eligibility requirements for applicants for a private detective, private detective agency or a private security person, as pertaining to a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly perform under the license or permit.

SECTIONS 4-9 and 19 exempt peace officers from the requirement to submit fingerprint cards with their application for a license or permit.

SECTION 10 lists causes for denial of an application for a license or a permit. The proposed rules permit the department to require an applicant to submit an evaluation report, an assessment

report or a physical examination report relating to certain types of addictions or disorders. The department may deny a license or permit to applicants who make misrepresentations on an application, who have various physical, emotional or mental conditions, or who are addicted to alcohol or controlled substances.

SECTION 11 corrects an error in the current rules relating to the fee that is required of persons who renew a license or a permit after it has expired for 5 years or more.

SECTION 12 creates a new title for Chapter RL 33.

SECTION 13 creates a requirement that a person, while on duty as a private security person, have on his or her person a private security permit issued by the department and, if carrying a firearm, a firearms permit issued by the department.

SECTION 14 clarifies the intent of a current rule by stating that licensed private detectives may not wear, use or display any badge, shield or star in the course of acting as a private detective.

SECTION 15 adds "insurance companies" to the list of those with whom a private detective agency is not required to enter into a written agreement before providing services to them.

SECTION 16 amends s. RL 34.01 (4) to provide that a peace officer, as defined in s. 939.22 (22), Stats., may carry on, about or near his or her person a firearm, concealed or otherwise, when acting as a private detective or private security person, provided that the peace officer obtains a firearms permit from the department. The department may grant an exemption from this requirement to a peace officer who submits to the department a letter from a law enforcement agency, written not more than one month before the date of receipt by the department, stating that the law enforcement agency will accept liability for the peace officer's use of a firearm while on duty for the private detective agency.

SECTION 17 repeals a rule that requires applicants for a firearms permit to submit fingerprint cards with their application for a permit. This change is proposed because the department now issues permits to private security persons and the department requires them to submit fingerprint cards with their application for a private security permit.

SECTION 18 repeals the requirement that the firearms training be repeated with each specific type of firearm the person will carry.

SECTIONS 20, 21 and 22 permit the department to approve a person as a firearms proficiency certifier a person who is currently approved by the Wisconsin law enforcement standards board or currently certified by the National Rifle Association, or a person who had been so approved or certified on or after January 1, 1995 and has completed a 6-hour refresher course, presented by a staff instructor of the National Rifle Association or a regional school approved by the Wisconsin Law Enforcement Standards Board.

SECTION 24 requires a firearms proficiency certifier to annually apply for approval as a firearms proficiency certifier.

SECTION 25 creates 2 additional causes for discipline, that is, the fact that a certified copy of an adjudication of mental incompetency shall constitute prima facie evidence of impairment by mental or emotional disorder, and the fact that a private security person fails to carry the required permits when on duty as a private security person.

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TEXT OF RULE

SECTION 1. RL 30.01 (9) is amended to read:

RL 30.01 (9) "Original private detective license" means a license issued to a person who does not hold a private detective license at the time the person makes application and who is not eligible to renew the license ~~without examination~~.

SECTION 2. RL 30.01 (10g) is created to read:

RL 30.01 (10g) "Peace officer" has the meaning given in s. 939.22 (22), Stats.

SECTION 3. RL 31.02 (1) (b) 3., (2) (d) and (3) (d) are created to read:

RL 31.02 (1) (b) 3. Does not have a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly direct or perform private detective or private security activities.

(2) (d) Does not have a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly perform private detective or private security activities.

(3) (d) Does not have a physical, emotional or mental condition that might adversely affect the applicant's ability to responsibly perform private security activities.

SECTION 4. RL 31.03 (1) (b) is amended to read:

RL 31.03 (1) (b) ~~For~~ Except as provided in sub. (4), for each person who, pursuant to s. 440.26 (2) (b), Stats., executes the application, 2 complete and satisfactory sets of fingerprints on forms supplied by the department.

SECTION 5. RL 31.03 (1m) is created to read:

RL 31.03 (1m) A peace officer is not required to file with the department fingerprints under sub. (1) (b), if the peace officer submits with the application for a license a letter from his or her employing law enforcement agency, written not more than one month before the date of the application and stating that the person is currently employed as a peace officer by the law enforcement agency.

SECTION 6. RL 31.035 (1) (b) is amended to read:

RL 31.035 (1) (b) ~~Two~~ Except as provided in sub. (4), 2 complete and satisfactory sets of fingerprints on forms supplied by the department.

SECTION 7. RL 31.035 (1m) is created to read:

RL 31.035 (1m) A peace officer is not required to file with the department fingerprints under sub. (1) (b), provided that the peace officer submits with the application for a license a letter from his or her employing law enforcement agency, written not more than one month before the date of the application and stating that the person is currently employed as a peace officer by the law enforcement agency.

SECTION 8. RL 31.036 (1) (b) is amended to read:

RL 31.036 (1) (b) ~~Two~~ Except as provided in sub. (5), 2 complete and satisfactory sets of fingerprints on forms supplied by the department.

SECTION 9. RL 31.036 (1m) is created to read:

RL 31.0365 (1m) A peace officer is not required to file with the department fingerprints under sub. (1) (b), provided that the peace officer submits with the application for a permit a letter from his or her employing law enforcement agency, written not more than one month before the date of the application and stating that the person is currently employed as a peace officer by the law enforcement agency.

SECTION 10. RL 31.05 is repealed and recreated to read:

**RL 31.05 Denial of credential.** (1) An application for a credential under this chapter may be denied for any of the following reasons:

(a) The applicant commits fraud or misrepresentation in the application for a credential.

(b) The applicant has a physical, emotional or mental condition which might adversely affect performance of duties relating to the credential for which he or she has applied.

(c) The applicant is dependent on alcohol to such a degree that it interferes with his or her physical or mental health or social or economic functioning, except that the department in the exercise of its discretion may issue a credential if the person submits to examination, evaluation, treatment, and monitoring as directed by the department.

(d) The applicant is addicted to the use of controlled substances or controlled substance analogs, except that the department in the exercise of its discretion may

issue a credential if the person submits to examination, evaluation, treatment, and monitoring as directed by the department.

(e) The applicant's conduct is a ground for discipline of a credential holder under s. RL 35.01.

(2) The department may require an applicant to undergo one or more physical, mental, alcohol or drug abuse evaluations and the department may consider the results of such evaluations if it believes that the results may be useful to the department in evaluating an applicant for a credential. The costs of evaluation shall be the responsibility of the applicant.

SECTION 11. RL 32.03 is amended to read:

**RL 32.03 Renewal of license more than 5 years after renewal date.** A private detective who applies for renewal of a license more than 5 years after the renewal date, as defined in s. 440.01 (1) (dm), Stats., shall successfully pass the licensing examination pursuant to s. RL 31.04 and pay the fee specified in s. ~~440.05 (1)~~ 440.08 (2) (a) 61., Stats.

SECTION 12. Chapter RL 33 (title) is amended to read:

CHAPTER RL 33 (title)

~~PRIVATE DETECTIVE AND AGENCY~~  
PRACTICE REQUIREMENTS

SECTION 13. RL 33.025 is created to read:

**RL 33.025 Private security persons to carry permits.** A private security person shall have on his or her person while on duty as a private security person the private security permit issued to him or her by the department and, if carrying a firearm, the firearms permit issued to him or her by the department.

SECTION 14. RL 33.05 is amended to read:

**RL 33.05 Badges, shields and stars prohibited.** ~~Licensed~~ Licensed private detectives may not wear, use or display any badge, shield or star in the course of acting as a private detective.

SECTION 15. RL 33.06 (2) (d) is created to read:

RL 33.06 (2) (d) When providing services to an insurance company.

SECTION 16. RL 34.01 (4) is amended to read:

RL 34.01 (4) A person who is a peace officer, as defined in s. 939.22 (22), Stats., may carry on, about or near his or her person a firearm, concealed or otherwise, when acting as a

private detective or private security person, if the peace officer obtains a firearms permit from the department. The department may grant an exception from this requirement to a peace officer who submits to the department a letter from a law enforcement agency, written not more than one month before the date of receipt by the department, stating that the law enforcement agency will accept liability for the peace officer's use of a firearm while on duty for the private detective agency.

SECTION 17. RL 34.015 (5) is repealed.

SECTION 18. RL 34.02 (1) is amended to read:

RL 34.02 (1) Before an agency may receive a permit from the department pursuant to s. RL 34.015, the owner or employe who will be assigned to carry a firearm while on duty shall obtain a certificate of proficiency in the care, handling and use of ~~that specific type of a~~ firearm. For the purpose of this subsection the owner or employe shall obtain a separate certification of proficiency for each type of firearm which the owner or employe will carry on duty, such as a revolver, semi-automatic weapon or a shotgun.

SECTION 19. RL 34.04 (1m) is created to read:

RL 34.04 (1m) A peace officer is not required to file with the department fingerprints under sub. (5), provided that the peace officer submits with the application for approval a letter from his or her employing law enforcement agency, written not more than one month before the date of the application and stating that the person is currently employed as a peace officer by the law enforcement agency.

SECTION 20. RL 34.04 (2) (intro.) is amended to read:

RL 34.04 (2) (intro.) An applicant for approval as ~~an approved~~ a firearms proficiency certifier shall at the time of application ~~and at all times thereafter~~ meet all of the following qualifications:

SECTION 21. RL 34.04 (2) (a) is renumbered RL 34.04 (2) (a) (intro.) and amended to read:

RL 34.04 (2) (a) (intro.) The individual shall ~~be currently approved as a firearms instructor by the training and standards bureau in the Wisconsin department of justice or certified as a firearms instructor by the national rifle association.~~ have received training as a police or security firearms instructor and shall provide evidence of one of the following:

SECTION 22. RL 34.04 (2) (a) 1., 2. and 3. are created to read:

RL 34.04 (2) (a) 1. Current approval as a firearms instructor by the Wisconsin law enforcement standards board.

2. Current certification as a law enforcement firearms instructor by the national rifle association.

3. At any time on or after January 1, 1995, was approved as a firearms instructor by the training and standards board in the Wisconsin law enforcement standards board or certified as a law enforcement firearms instructor, or a substantially equivalent designation, by the national rifle association and has completed a 6-hour firearms instructor refresher course within 12 months before application for approval by the department. The refresher course shall be presented by a regional training school approved by the Wisconsin law enforcement standards board or by a staff instructor in the law enforcement activities division of the national rifle association.

SECTION 23. RL 34.04 (2) (b), (5) and (6) are amended to read:

RL 34.04 (2) (b) Notwithstanding ss. 111.321, 111.322 and 111.335, Stats., the individual shall not have been convicted of a felony and is not prohibited from possessing a firearm under ~~s. 941.29, Stats~~ any state or federal law.

(5) ~~An~~ Except as provided in sub. (1m), an applicant shall submit to the department 2 complete and satisfactory sets of fingerprints to carry a firearm and the department may obtain a criminal history record search from the Wisconsin department of justice and the federal bureau of investigation relating to the applicant before initially granting a permit for that individual ~~and every 2 years thereafter.~~

(6) The applicant shall pay the reasonable costs incurred by the department in obtaining information relating to the eligibility and ~~qualifications~~ qualifications of the application, including the reasonable costs of criminal history record searches.

SECTION 24. RL 34.04 (7) is created to read:

RL 34.04 (7) The approval of a firearms proficiency certifier shall expire on December 31 of each even-numbered year, unless the firearms proficiency certifier submits to the department an application for renewal and is reapproved by the department.

SECTION 25. RL 35.01 (1) is amended to read:

RL 35.01 (1) Performing private detective or private security related services while the ability of the credential holder to competently perform duties is impaired by mental or emotional disorder or alcohol or other drug abuse. A certified copy of an adjudication of mental incompetency shall constitute prima facie evidence of impairment by mental or emotional disorder under this subsection.



SECTION 26. RL 35.01 (4m) is created to read:

RL 35.01 (4m) Failing to have on his or her person a private security permit while on duty as a private security person and, if carrying a firearm on, about or near his or her person while on duty, failing to have on his or her person the firearms permit issued by the department.

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(END OF TEXT OF RULE)

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The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated

11/15/00

Agency

Marlene A. Cummings

Marlene A. Cummings, Secretary  
Department of Regulation and Licensing



State of Wisconsin  
DEPARTMENT OF REGULATION AND LICENSING  
CORRESPONDENCE/MEMORANDUM

**DATE:** November 15, 2000

**TO:** Gary Poulson  
Assistant Revisor of Statutes

**FROM:** Pamela A. Haack, Paralegal  
Department of Regulation and Licensing  
Office of Administrative Rules

**SUBJECT:** Final Order Adopting Rules



**Agency: Department of Regulation and Licensing**

**Clearinghouse Rule 00-100**

Attached is a copy and a certified copy of a final order adopting rules relating to private detectives, private detective agencies and private security personnel.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.