

1987 Assembly Bill 278

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1987 Wisconsin Act 353

AN ACT to renumber and amend 29.104 (4) (a); to amend 23.33 (5) (a) and (b), 29.104 (4) (b) 2 and 5 and 167.31 (4) (c); to repeal and recreate 29.09 (9); and to create 23.33 (4) (d) 6, 29.09 (8m), 29.093 (2) (cr), 29.104 (4) (a) 1 to 4 and 29.107 (1m) of the statutes, relating to special hunting and fishing permits for persons with a physical disability and the operation of all-terrain vehicles by such persons.

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

SECTION 1. 23.33 (4) (d) 6 of the statutes is created to read:

23.33 (4) (d) 6. On roadways if the all-terrain vehicle is being operated by a person who holds a Class A permit or a Class B permit under s. 29.09 (9) and who is engaging in an activity authorized by the permit.

SECTION 1d. 23.33 (5) (a) and (b) of the statutes are amended to read:

23.33 (5) (a) *Age restriction.* No person under 12 years of age may operate an all-terrain vehicle unless he or she is accompanied by a parent, guardian or person over 18 years of age. No person who is under 12 years of age may operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under sub. (4) (d) 5 regardless of whether he or she is accompanied by a parent, guardian or person over 18 years of age. No person who is under 12 years of age may operate an all-terrain vehicle on a roadway under the authorization provided under sub. (4) (d) 6 regardless of whether he or she is accompanied by a parent, guardian or person over 18 years of age.

(b) *All-terrain vehicle safety certificate.* A person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle unless he or she holds a valid all-terrain vehicle safety certificate or is accompanied by a person over 18 years of age. A

person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle on a roadway under the authorization provided under sub. (4) (d) 6 unless he or she holds a valid all-terrain vehicle safety certificate regardless if he or she is accompanied by a person over 18 years of age. A person who is at least 12 years of age but under 16 years of age may not operate an all-terrain vehicle which is an implement of husbandry on a roadway under the authorization provided under sub. (4) (d) 5 unless he or she holds a valid all-terrain vehicle safety certificate regardless if he or she is accompanied by a person over 18 years of age. A person who is at least 12 years of age but under 16 years of age who holds an all-terrain vehicle safety certificate shall carry it while operating an all-terrain vehicle and shall display it to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate an all-terrain vehicle in an area designated by the instructor.

SECTION 1g. 29.09 (8m) of the statutes is created to read:

29.09 (8m) **DISABLED PERSONS; TROLLING MOTOR.** After proper application and presentation of a current fishing license duly issued to the applicant, the department shall, after due investigation and without charging a fee, issue a special permit to any person who is unable to ambulate and requires a wheel chair, walker, one leg brace or prosthesis above the knee, 2

leg braces or prostheses below the knee, 2 crutches or 2 canes for mobility or who is unable to operate a nonmotorized boat, as defined in s. 30.50 (7), because of a respiratory impairment or disease, to fish using an electric trolling motor with no more than 30 pounds of thrust. A person holding a permit under this paragraph may fish in the waters of this state using such a trolling motor regardless of any local regulations adopted under s. 30.77 (3) to prohibit the use of motorboats on any lake.

SECTION 1m. 29.09 (9) of the statutes, as affected by 1987 Wisconsin Act 27, is repealed and recreated to read:

29.09 (9) DISABLED PERSONS. (a) *Definitions*. As used in this subsection:

1. "Accompanied" means being subject to continuous visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.

2. "Class A permit" means a permit issued to a person with a permanent physical disability which authorizes the permit holder to shoot or hunt from a stationary vehicle.

3. "Class B permit" means a permit issued to a person with a permanent or a temporary physical disability which allows the permit holder to shoot or hunt from a stationary vehicle that is parked off a highway, as defined under s. 340.01 (22), and parked more than 50 feet from the center of the roadway, as defined under s. 340.01 (54).

4. "Vehicle" means a self-propelled vehicle, including any automobile, truck, snowmobile, all-terrain vehicle or other vehicle which travels on or off roads or highways.

(b) *Issuance of permit*. 1. After proper application and presentation of a current hunting license duly issued to the applicant, the department shall, after due investigation and without charging a fee, issue a Class A or Class B permit to any person, as provided in this subsection.

2. An applicant shall submit on a form prepared and furnished by the department, as part of the application, a written statement or report prepared and signed by a licensed physician or licensed chiropractor, prepared no more than 6 months preceding the application and verifying that the applicant is physically disabled.

3. As part of the application for a Class A or Class B permit under this subsection, the applicant shall authorize the department by written release to examine all medical records regarding the applicant's physical disability.

(c) *Eligibility*. 1. The department shall issue a Class A permit under this subsection to an applicant who is handicapped in any of the following ways:

a. Has a permanent or irreversible physical disability, is unable to ambulate and requires a wheel chair, walker, one leg brace or prosthesis above the knee, 2

leg braces or prostheses below the knees, 2 crutches or 2 canes for mobility.

b. Suffers significantly from lung disease, to the extent that forced expiratory volume for one second when measured by spirometry is less than one liter or the arterial oxygen tension is less than 60 millimeters of mercury on room air at rest.

c. Suffers significantly from cardiovascular disease, to the extent that functional limitations are classified in severity as class 3 or 4, according to standards accepted by the American heart association on the effective date of this subdivision ... [revisor inserts date], and where ordinary physical activity always causes discomfort, fatigue, palpitation, dyspnea or anginal pain.

2. The department shall issue a Class B permit under this subsection to an applicant who has a temporary disability which restricts mobility or ambulation due to injury or operative procedures and who either has a leg, hip or back, or any part thereof, casted by a licensed physician due to a fracture or has leg, hip or back surgery after August 31 immediately preceding the hunting season to which the permit will first apply. The department may also issue a Class B permit to a person as provided in subd. 3.

3. The department may issue a Class B permit to an applicant who is ineligible for a permit under subd. 1 or 2 or who is denied a permit under subd. 1 or 2 if, upon review and after considering the physical condition of the applicant and the recommendation of a licensed physician selected by the applicant from a list of licensed physicians compiled by the department, the department finds that issuance of a permit complies with the intent of this subsection. The use of this review procedure is discretionary with the department and all costs of the review procedure shall be paid by the applicant.

(d) *Assistance*. A permit holder under this subsection may be accompanied by a person who is not eligible to apply for a Class A or Class B permit. The accompanying person may not hunt or carry a firearm, bow or crossbow unless authorized to do so. The assistance rendered by an accompanying person who is not authorized to hunt or carry a firearm, bow or crossbow is limited to field dressing, tagging and retrieving deer or other wild animals for the permit holder.

(e) *Review of decisions*. An applicant denied a permit under this subsection, except a permit under par. (c) 3, may obtain a review of that decision by a licensed physician or a licensed chiropractor designated by the department and with an office located in the department district in which the applicant resides. The department shall pay for the cost of a review under this paragraph unless the denied application on its face fails to meet the standards set forth in par. (c) 1 or 2. A review under this paragraph is the only method of review of a decision to deny a permit under

this subsection and is not subject to further review under ch. 227.

SECTION 2. 29.093 (2) (cr) of the statutes is created to read:

29.093 (2) (cr) *Special hunting permits.* 1. A Class A permit issued under s. 29.09 (9) (c) 1 is valid for the 5-year period specified on the license.

2. A Class B permit issued under s. 29.09 (9) (c) 2 or 3 is valid from September 1 or the date of issuance, whichever is later, until the following August 31, unless otherwise authorized by the department and specified on the permit.

3. A special hunting permit issued under s. 29.09 (9) before the effective date of this subdivision [revisor inserts date], is valid until the first day of the 6th year after the effective date of this subdivision [revisor inserts date].

SECTION 3. 29.104 (4) (a) of the statutes is renumbered 29.104 (4) (a) (intro.) and amended to read:

29.104 (4) (a) (intro.) After proper application and presentation of a current resident archer hunting license duly issued to the applicant, the secretary ~~may~~ shall grant to any person who is established by medical evidence, verified by a written statement from a licensed physician, to be unable to operate a manually pulled bow because of a permanent physical disability a special permit to hunt with a crossbow meeting the specifications of par. (b); if the person meets any of the following:

SECTION 4. 29.104 (4) (a) 1 to 4 of the statutes are created to read:

29.104 (4) (a) 1. Possesses a Class A permit under s. 29.09 (9).

2. Has an amputation or other loss of one or more arms above the wrist.

3. Has an amputation or other loss of the index and middle fingers on the draw and release hand.

4. Has a permanent substantial loss of function in one or both arms or one or both hands and fails to meet the minimum standards of the standard upper extremity pinch, grip and 10-hole peg tests, administered under the direction of a licensed physician.

SECTION 5. 29.104 (4) (b) 2 and 5 of the statutes are amended to read:

29.104 (4) (b) 2. Shall ~~deliver at least 42 ft. lbs. of energy at a distance of 10 feet~~ have a minimum draw weight of 100 pounds;

5. Shall be used with arrows or bolts of not less than ~~40~~ 14 inches in length with a broadhead.

SECTION 6. 29.107 (1m) of the statutes is created to read:

29.107 (1m) PERSONS WITH PHYSICAL DISABILITIES.
(a) In this subsection:

1. "Accompanied" has the meaning given under s. 29.09 (9) (a) 1.

2. "Visually handicapped" means blind, as defined in s. 47.01 (1).

(b) A Class A permit holder under s. 29.09 (9) or a person who is visually handicapped and who has a valid deer hunting license shall be issued a hunter's choice deer hunting permit under this section, notwithstanding subs. (1) and (3) to (6), upon application and without cost, for use in any area in which a hunter's choice deer hunting permit is valid.

(c) A person under par. (b) who is visually handicapped shall be accompanied by a person who is not eligible to apply for a permit under s. 29.09 (9) and who is not visually handicapped. The accompanying person may not hunt or carry a firearm, bow or crossbow unless authorized to do so. The assistance rendered by an accompanying person may include sighting the firearm, bow or crossbow, identifying the deer and field dressing, tagging and retrieving deer for the visually handicapped person.

SECTION 8. 167.31 (4) (c) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

167.31 (4) (c) Subsection (2) (b) and (c) does not apply to the holder of a permit under s. 29.09 (9) (c) who is hunting from a standing ~~motor~~ vehicle, as defined in s. 29.09 (9) (a) 4, in accordance with ~~that~~ subsection s. 29.09 (9).