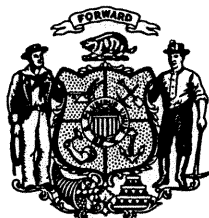


## WISCONSIN LEGISLATIVE COUNCIL STAFF

***RULES CLEARINGHOUSE***

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One E. Main St., Ste. 401  
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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-100**

AN ORDER to repeal RL 34.015 (5); to amend RL 30.01 (9), 31.03 (1) (b), 31.035 (1) (b), 31.036 (1) (b), 32.03, 33.05, 34.01 (4), 34.02 (1), (2) (intro.), (a) and (b), (5) and (6); to repeal and recreate RL 31.05; and to create RL 30.01 (10g), 31.03 (4), 31.035 (4), 31.036 (5), 33.025, 33.06 (2) (d), 34.04 (2) (a), 1., 2. and 3., (7) and (8) and 35.01 (4m), relating to peace officers, causes for denial, firearms permits, and firearms proficiency certifiers.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

06-01-00 RECEIVED BY LEGISLATIVE COUNCIL.

06-27-00 REPORT SENT TO AGENCY.

RNS:AS:jal;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

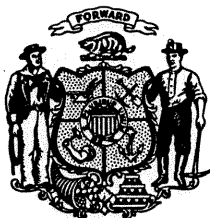
Comment Attached      YES       NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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## CLEARINGHOUSE RULE 00-100

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

In SECTION 17, s. RL 34.04 (2) (a) should be renumbered par. (a) (intro.) and amended. This should be done in a separate SECTION from the amendment of s. RL 34.04 (2) (intro.).

#### 4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. RL 30.01 (10g), the cite to s. 922.39 (22), Stats., is incorrect and should be to s. 939.22 (22), Stats.

b. In s. RL 31.035 (1) (b), the reference to sub. (5) should be to sub. (4).

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the analysis of the rule, it appears that the references to s. 440.26 (1) (b) and 440.974 (2), Stats., as statutes authorizing promulgation, and the reference to s. 440.974 (2), Stats., as a statute interpreted, are inaccurate and should be deleted.

Also in the analysis, it would be helpful to state at the beginning of the description that the rules affected apply to private security personnel so that there is a context for the changes to the rules that are listed.

In the description of SECTION 9 in the analysis, "as assessment report" should be replaced with "an assessment report." Also, "and who are addicted to alcohol" should be replaced with "or who are addicted to alcohol."

Finally, in the description of SECTIONS 17, 18 and 19, "SECTIONS 17, 18 and 19 permits" should be replaced with "SECTIONS 17, 18 and 19 permit" and the hyphenated phrases should not be hyphenated.

b. In s. RL 31.03 (4), "provided that" should be replaced with "if." Also, it makes more sense to have the text in sub. (4) immediately follow sub. (1) since it relates to a requirement of that subsection. These comments also apply to ss. RL 31.035 (4), 31.0365 (5) and 34.04 (7).

c. In s. RL 31.05 (1) (intro.), "reasons" should be inserted at the end of the sentence.

d. Section RL 31.05 (2) does not appear to create an effective mechanism for ensuring that private security personnel do not have mental or emotional conditions that affect their ability to act as security personnel. It would make more sense to create a reason that a credential may be denied that relates to debilitating mental or emotional conditions. Can sub. (2) be reworded and included as a paragraph under sub. (1)?

e. In ch. RL 33, is there a distinction between private detectives and private security persons? If not, one term should be used consistently. If there is a difference, that should be clarified.

f. In s. RL 34.01 (4), "provided that" should be replaced with "if."

g. In s. RL 34.02 (1), "~~sem-automatic~~" should be replaced with "~~semi-automatic~~."

h. In s. RL 34.04 (6), "application" should be replaced with "applicant."

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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

---

PROPOSED ORDER

An order of the Department of Regulation and Licensing to repeal RL 34.015 (5); to amend RL 30.01 (9), 31.03 (1) (b), 31.035 (1) (b), 31.036 (1) (b), 32.03, 33.05, 34.01 (4), 34.02 (1), (2) (intro.), (a), (2) (b), (5) and (6); to repeal and recreate RL 31.05; and to create RL 30.01 (10g), 31.03 (4), 31.035 (4), 31.036 (5), 33.025, 33.06 (2) (d), 34.04 (2) (a), 1., 2. and 3., (7) and (8) and 35.01 (4m), relating to peace officers, causes for denial, firearms permits, and firearms proficiency certifiers.

Analysis prepared by the Department of Regulation and Licensing.

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ANALYSIS

Statutes authorizing promulgation: ss. 227.11 (2), 440.26 (1) (b), (2) (c), (3m) and (6) and 440.974 (2), Stats.

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

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."

SECTIONS 3-8 exempt peace officers from the requirement to submit fingerprint cards with their application for a license or permit.

SECTION 9 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 been adjudged to be mentally incompetent, who have various emotional and behavioral disorders, and who are addicted to alcohol or controlled substances.

SECTION 10 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 11 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 12 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 13 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 14 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 15 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 16 repeals the requirement that the firearms training be repeated with each specific type of firearm the person will carry.

SECTIONS 17, 18 and 19 permits the department to approve a person as a firearms proficiency certifier, not just when currently-approved by the Wisconsin law enforcement standards board or currently-certified by the National Rifle Association, but also when the person has received comparable training, as specifically stated in the rule, from a staff instructor of the National Rifle Association or a regional school approved by the Wisconsin Law Enforcement Standards Board.

SECTION 20 requires a firearms proficiency certifier to annually apply for approval as a firearms proficiency certifier.

SECTION 21 creates an additional cause for discipline, that is, 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. 922.39 (22), Stats. (LX)

SECTION 3. 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 4. RL 31.03 (4) is created to read:

RL 31.03 (4) 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 5. RL 31.035 (1) (b) is amended to read:

RL 31.035 (1) (b) ~~Two~~ Except as provided in sub. (5), 2 complete and satisfactory sets of fingerprints on forms supplied by the department.

SECTION 6. RL 31.035 (4) is created to read:

RL 31.035 (4) 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 7. 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 8. RL 31.0365 (5) is created to read:

RL 31.0365 (5) 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 9. 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:

- (a) The applicant commits fraud or misrepresentation in the application for a credential.
- (b) The applicant is adjudged mentally incompetent.
- (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) A person who applies for an original credential, applies for renewal of a credential, or holds a credential shall meet all of the following mental and emotional functioning criteria:

- (a) There is no dementia or delusional system that is unresponsive to treatment.
- (b) There is no behavior disorder with threatening or assaultive behavior at the time of application.
- (c) As assessed by a physician, there is no impairment or judgment that interferes with the safe and competent performance of relevant duties.
- (d) There is no active psychosis that interferes with the safe and competent performance of relevant duties, as assessed by a physician.

(3) If the department suspects or has reason to believe that an applicant or credential holder may pose a threat to the health, safety or welfare of the public, the department may require a physical examination, an alcohol or drug abuse assessment or a mental health evaluation of the person, as a condition for issuance of an original credential or renewal of a credential.



SECTION 10. 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 11. 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 12. RL 33.05 is amended to read:

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

SECTION 13. RL 33.06 (2) (d) is created to read:

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

SECTION 14. 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, provided that 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 15. RL 34.015 (5) is repealed.

SECTION 16. 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, sem-automatic weapon or a shotgun.~~

SECTION 17. RL 34.04 (2) (intro.) and (a) are 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:

*ren. (a) (intro.)*  
(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 18. 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 19. 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. (7), 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 20. RL 34.04 (7) and (8) are created to read:

RL 34.04 (7) 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.

(8) 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 21. 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 \_\_\_\_\_

Agency \_\_\_\_\_  
Marlene A. Cummings, Secretary  
Department of Regulation and Licensing

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\pd1.doc  
6/1/2000

SEP 22 2000

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

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**IN THE MATTER OF RULE-MAKING : PROPOSED 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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TO: Senator Judy Robson, Senate Co-Chairperson  
Joint Committee for the Review of Administrative Rules  
Room 15 South, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the DEPARTMENT OF REGULATION AND LICENSING is submitting in final draft form rules relating to private detectives, private detective agencies and private security personnel.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

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

---

**IN THE MATTER OF RULE-MAKING : REPORT TO THE LEGISLATURE  
PROCEEDINGS BEFORE THE : ON CLEARINGHOUSE RULE 00-100  
DEPARTMENT OF REGULATION : (s. 227.19 (3), Stats.)  
AND LICENSING :**

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

These rules will have no significant impact upon state or local units of government.

**IV. STATEMENT EXPLAINING NEED:**

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.

Changes are being made for the purpose of correcting errors and better addressing new circumstances. Some of the changes have been recommended by the Private Detective Advisory Committee and the Private Security Advisory Committee. The proposed changes relate to the renewal of private detective licenses, contracts between private detective agencies and their clients, approval of firearms proficiency certifiers, and causes for denial of a private detective license or a private security permit.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on July 7, 2000. Lorelee Brumund and Steve Sell, both employees of the State Patrol in the Department of Transportation, appeared at the hearing for information only. There were no other appearances at the hearing and no written comments were received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

First part of Comment 5.e. "In ch. RL 33, is there a distinction between private detectives and private security persons?" Response: yes.

Second part of Comment 5.e. "If not, one term should be used consistently. If there is a difference, that should be clarified." Response: It is adequately clarified in each section of Chapter RL 33. "Licensee" is defined in s. RL 30.02 (5); however, the department is changing s. RL 35, to provide emphasis and help licensees understand the applicability of the rule.

The remaining recommendations suggested in the Clearinghouse Report were accepted in whole.

**VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

See the comments of a member of the department's Small Business Review Advisory Committee and the department's response on pages 8 and 9 of the rule-making order, under this same heading.

STATE OF WISCONSIN  
DEPARTMENT OF REGULATION AND LICENSING

---

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

---

PROPOSED 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.** ~~Licenseses~~ 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~~ 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 \_\_\_\_\_

Agency \_\_\_\_\_  
Marlene A. Cummings, Secretary  
Department of Regulation and Licensing

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

A member of the department's Small Business Review Advisory Committee had the following comment: "Maybe it is not affecting business, however, I am confused about the accountability of peace officers versus private security officers (example: language regarding fingerprints)."

The department offered the following response and made no additional changes. The Wisconsin Statutes only permit peace officers to carry concealed weapons. Private detectives and private security persons may not carry a concealed weapon unless they are peace officers.

The purpose of the private detective and private security regulation is to assure that private detectives and private security persons have not been convicted of serious crimes, that the employing agency has a surety bond or a liability policy, and that private detectives are minimally competent to protect the public. Peace officers are required to satisfy comprehensive qualification standards.

Peace officers are required to obtain 400 hours of law enforcement training before being appointed to a permanent position and must obtain 24 hours every fiscal year. Therefore, peace officers have received many hours of training, far exceeding anything that private detectives and private security persons are required to obtain.

Persons may not be certified as a peace officer if they are convicted of a felony. Moreover, if they are subsequently convicted of a felony they will be decertified. The department's rules require that private detectives and private security persons inform the department of any conviction. The department obtains a Wisconsin criminal records report on all private detectives and private security persons (including those that are peace officers) when they file a biennial renewal application.

These proposed rules, therefore, are based on the fact that peace officers have already gone through careful scrutiny and there is no need to add additional fees for criminal records checks when such checks effectively amount to duplication of effort.

These proposed rules will have no significant adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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9/21/2000