

## CHAPTER 175

## MISCELLANEOUS POLICE PROVISIONS

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**175.05 Sabotage. (1) DEFINITIONS.** As used in this section:

(a) “Highway” includes any private or public street, way or other place used for travel to or from property.

(b) “Highway commissioners” mean any individuals, board or other body having authority under then existing law to discontinue the use of the highway which it is desired to restrict or close to public use and travel.

(c) “Peace officer” includes sheriffs, undersheriffs, deputy sheriffs, police officers, railroad police officers appointed under s. 192.47, constables, marshals, deputy marshals, and federal law enforcement officers.

(d) “Person” includes a firm, partnership, limited liability company, corporation or association.

(e) “Public utility” includes any pipe line, gas, electric, heat, water, oil, sewer, telecommunications, telegraph, radio, railway, railroad, airplane, transportation, communication or other system, by whomsoever owned or operated for public use.

**(2) UNLAWFUL ENTRY ON PROPERTY.** (a) Any person or state or any political subdivision thereof engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war or in the prosecution of war by the United States or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any such person or governmental unit operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around that person’s, state’s or political subdivision’s property at each gate, entrance, dock or railway entrance and every 100 feet of water front a sign reading “No Entry Without Permission”.

(b) Whoever without permission shall willfully enter upon premises so posted shall be punished by a fine of not more than \$50, or by imprisonment in the county jail for not more than 30 days, or by both such fine and imprisonment.

**(3) QUESTIONING AND DETAINING SUSPECTED PERSONS.** Any peace officer or any person employed as security person, guard, or in a supervisory capacity on premises posted as provided in sub. (2) may stop any person found on any premises to which entry without permission is forbidden by said subsection and may detain that person and demand that person’s name, address and business in such place. If the peace officer or employee has reason to believe from the answers of the person so interrogated that that person has no right to be in that place, the peace officer or employee shall forthwith release or arrest that person without a warrant on a charge of violating the provisions of sub. (2) and an employee in case of arrest shall forthwith turn the arrested person over to a peace officer.

**(4) CLOSING AND RESTRICTING USE OF HIGHWAY.** (a) Any person, municipal corporation, or state or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the prepara-

tion of the United States or any of the states for defense or for war or in prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any such person or governmental unit operating any public utility, who has property so used which that person or governmental unit believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which such property abuts, may petition the highway commissioners of any city, village, town or county to close one or more of said highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of said highways or parts thereof.

(b) Upon receipt of such petition, the highway commissioners shall set a day for hearing and give notice thereof by publication of a class 1 notice, under ch. 985, in the city, village, town or county in which the property is located, such notice to be at least 7 days prior to the date set for hearing. If after hearing the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof, except that the highway commissioners may issue written permits to travel over the highways so closed or restricted, to responsible and reputable persons for such term, under such conditions and in such form as the commissioners may prescribe. The order of the highway commissioners closing or restricting the use of one or more of the highways shall be effective only so long as the public safety and the safety of the property of the petitioner may require. Such order shall be vacated by the highway commissioners when the necessity which prompted it has ceased to exist. Any person feeling aggrieved by any order of the highway commissioners rendered pursuant to this subsection may, within 7 days after the issuance of the order, petition the division of hearings and appeals in the department of administration for a review thereof. A copy of the petition shall, within the period named, likewise be filed with the clerk of the local highway commissioners. The clerk shall thereupon certify to the division of hearings and appeals a copy of the order in question together with a transcript of any testimony that may have been taken and any documentary evidence received on which the order was based. On the record so certified and on any additional evidence deemed necessary by it, the division of hearings and appeals shall render its decision affirming, vacating or modifying the order in question. Should additional evidence be deemed necessary by the division of hearings and appeals, at least 7 days’ notice of any hearing for that purpose shall be given to the person bringing the petition for review and the clerk of the local highway commissioners.

(c) Appropriate notices in letters at least 3 inches high shall be posted conspicuously at each end of any highway so closed or restricted by such order. The highway commissioners may at any time revoke or modify any order so made.

**(5) PENALTY FOR GOING UPON CLOSED OR RESTRICTED HIGHWAY.** Whoever violates any order made under sub. (4) shall be punished

by imprisonment in the county jail for not more than 10 days, or by a fine of not more than \$50, or both.

**(6) RIGHTS OF LABOR.** Nothing in this section shall be construed to impair, curtail or destroy the rights of employees and their representatives to self-organization, to form, join or assist labor organization, to strike, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection, under either the federal labor relations act or ss. 111.01 to 111.19.

**(7) NATIONAL RAILWAY LABOR ACT NOT AFFECTED.** Nothing in this section shall be deemed or construed to interfere with or abridge or in any manner diminish or affect the rights provided for under the National Railway Labor Act.

**History:** 1977 c. 29 s. 1654 (8) (e); 1979 c. 89; 1981 c. 347 s. 80 (2); 1983 a. 189; 1985 a. 135; 1985 a. 297 s. 76; 1993 a. 16, 112, 482, 490.

**175.09 Standard time. (1)** The standard of time in this state shall be the solar time of the ninetieth meridian west of Greenwich, commonly known as central time, and no department of the state government, and no county, city, town or village shall employ any other time, or adopt any ordinance or order providing for the use of any other than the standard of time.

**(2)** No person operating or maintaining a place of business of whatsoever kind or nature, shall employ, display or maintain or use any other than the standard of time in connection with such place of business.

**(3)** Whoever shall in connection with any place of business use any other than the standard of time shall be fined not less than \$25 nor more than \$500 or imprisoned for not less than 10 days nor more than 30 days or both.

**History:** 1997 a. 254.

**175.095 Daylight saving time. (1)** Notwithstanding s. 175.09 (1), the standard of time shall be as provided in sub. (2) during the period stated therein.

**(2)** From 2 a.m. on the 2nd Sunday in March until 2 a.m. on the first Sunday in November of each year, the standard of time in this state shall be one hour in advance of that prescribed in s. 175.09 (1).

**History:** 1987 a. 8; 2007 a. 3.

**175.10 Sale to employees prohibited. (1)** No department or agency of the state or any political subdivision thereof, or member or officer of any village, town or county board or common council of any city, or any purchasing agent or purchasing agency of the state or any political subdivision thereof, shall sell or procure for sale or have in its possession or under its control for sale to any employees of the state or any political subdivision thereof any article, material, product or merchandise of whatsoever nature, excepting meals, public services and such specialized appliances and paraphernalia as may be required for the safety or health of the employees.

**(2)** Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in the county jail not less than 30 days nor more than 90 days, or both.

**(3)** The provisions of this section shall not apply to this state, nor to any political subdivision thereof, nor to any department, agency, officer or employee of any of them while engaged in any recreational, health, welfare, relief, safety, or educational activities furnished by this state or any political subdivision thereof.

**175.15 Endurance contests; penalty. (1)** No person, firm or corporation shall advertise, operate, maintain, attend, participate in, promote or aid in advertising, operating, maintaining or promoting any physical endurance contest, exhibition, performance, or show in the nature of a "marathon," "walkathon," "skatathon" or any other physical endurance contest, exhibition, performance or show of a like or similar nature, whether or not an

admission is charged or a prize is awarded to any person for participation in such physical endurance contest, wherein any person participates in such contest for a period of more than 16 hours in any 24 hours over a period of more than 6 days in one month.

**(2)** Any person attending any contest, exhibition, performance or show enumerated in sub. (1) shall be punished by a fine of not less than \$5 nor more than \$25 or by imprisonment in the county jail for not more than 10 days or by both such fine and imprisonment.

**(3)** Except as provided in sub. (2) any person, firm or corporation violating any of the provisions of sub. (1) shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than 10 days nor more than one year, or by both such fine and imprisonment. Each day for which any of the provisions of said sub. (1) is violated shall constitute a separate offense.

**(4)** The place, buildings and premises where any of the illegal exhibitions or contests mentioned in sub. (1) hereof are hereafter conducted, maintained, had or held are hereby declared to be and constitute a public nuisance, and it is hereby the duty of the attorney general and district attorney to take proper action to abate the same.

**(5)** Section 945.01 (4) (c) shall also apply to this section.

**(6)** Nothing contained in this section shall be construed to apply to or prohibit roller skating or bicycle contests or races which are not intended to and which do not continue for or have a duration of more than 150 hours.

**175.20 Amusement places, license, regulation. (1)** No person may conduct any dance to which the public is admitted, or conduct, establish or manage any public dance hall or pavilion, amusement park, carnival, concert, street fair, bathing beach or other like place of amusement in any county in which the board of supervisors has enacted an ordinance, adopted a resolution or enacted bylaws in accordance with the provisions of s. 59.56 (12) (b) or (br), subject to s. 59.56 (12m), without first securing a license as provided in s. 59.56 (12) (b) or (br) or 60.23 (10). No person required to have such a license may conduct a dance to which the public is admitted except in the presence and under the supervision of a county dance supervisor.

**(3)** Any person who violates any of the provisions of this section may be fined not more than \$10,000 or may be imprisoned for not more than 9 months or both. In addition, the court may revoke the license or licenses of the person or persons convicted.

**History:** 1977 c. 64; 1987 a. 332; 1989 a. 336; 1993 a. 246; 1995 a. 201; 1997 a. 283; 2001 a. 109.

**175.22 Policy on privacy in locker rooms. (1)** In this section:

(a) "Person" includes the state.

(b) "Recording device" means a camera, a video recorder, or any other device that may be used to record or transfer images.

**(2)** Any person that owns or operates a locker room in this state shall adopt a written policy that does all of the following:

(a) Specifies who may enter and remain in the locker room to interview or seek information from any individual in the locker room.

(b) Specifies the recording devices that may be used in the locker room and the circumstances under which they may be used.

(c) Reflects the privacy interests of individuals who use the locker room.

(d) Specifies that no person may use a cell phone to capture, record, or transfer a representation of a nude or partially nude person in the locker room.

**History:** 2007 a. 118.

**175.25 Storage of junked automobiles. (1)** No person, firm, partnership or corporation shall accumulate or store any junked automobiles or parts thereof outside of any building on any real estate located within the corporate limits of any city, village

or town except upon a permit issued by the common council or village or town board.

(2) No accumulation or storage of such material shall be allowed within 2,000 feet outside of the corporate limits of a city or village or within 750 feet of the center line of any county trunk, state trunk or federal highway or within 500 feet of the center line of any town road, except upon a permit issued by permission of the town board.

(3) The permit issued by city council, village or town board shall be signed either by the mayor or president or chairperson as the case may be and clerk thereof and shall specify the quantity and manner of storing such junk. Such permit shall be revocable at any time by such council or board after a hearing at which it has been found that the permit holder has failed or refused to comply with the ordinances or restrictions providing regulations for the storage of such junked automobiles or parts thereof. Such hearing may be held by the common council of any city or the board of any town or village upon its own motion, or upon the complaint in writing, duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with such ordinance or regulation. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than 10 days previous to the date of hearing.

(4) Any person, firm, partnership or corporation now engaged in the business of accumulating or storing and leaving accumulated or stored junked automobiles, or parts thereof, outside of any building on real estate within the corporate limits of any city or village, or within 2,000 feet outside the corporate limits of a city or village, or within 750 feet of the center line of any state trunk or federal highway in any town on August 19, 1939 may, at any time within 6 months after such date, upon application therefor to the governing body of such town, city or village upon showing such facts, be granted a permit for such place of accumulation or storage; any person, firm, partnership or corporation succeeding a business now engaged in the accumulating or storage and leaving accumulated and stored junked automobiles, or parts thereof, outside of any building on real estate as hereinbefore provided may likewise be granted such permit.

(5) Any person, firm, partnership or corporation violating any of the provisions hereof shall upon conviction be fined not less than \$10, nor more than \$50 for each offense, and in default of payment of said fine shall be imprisoned in the county jail for a period not exceeding 30 days. Each day that junk, as herein defined, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense.

**History:** 1971 c. 128; 1993 a. 184, 246.

**175.30 Purchase of firearms in contiguous states permitted.** It is lawful for a resident of this state or a corporation or other business entity maintaining a place of business in this state to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state if the transfer complies with federal law and the laws of both states.

**History:** 1971 c. 39.

**175.35 Waiting period for purchase of handguns.**

(1) In this section:

(ag) “Criminal history record” includes information reported to the department under s. 938.396 (2g) (n) that indicates a person was adjudicated delinquent for an act that if committed by an adult in this state would be a felony.

(ar) “Firearms dealer” means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer issued by the U.S. department of the treasury.

(at) “Firearms restrictions record search” means a search of department of justice records to determine whether a person seeking to purchase a handgun is prohibited from possessing a firearm under s. 941.29. “Firearms restriction record search” includes a criminal history record search, a search to determine whether a

person is prohibited from possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats., a search in the national instant criminal background check system to determine whether a person has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a), a search to determine whether the person is subject to an injunction under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin, that includes notice to the respondent that he or she is subject to the requirements and penalties under s. 941.29 and that has been filed with the circuit court under s. 806.247 (3), and a search to determine whether the person is prohibited from possessing a firearm under s. 813.125 (4m).

(b) “Handgun” means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.

(c) “Working day” means each day except Saturday, Sunday, or a legal holiday under s. 995.20.

(2) When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun to any other person until all of the following have occurred:

(a) The transferee has provided identification as required by rule under sub. (2g) (a).

(b) The transferee has completed the notification form described in sub. (2g) (b).

(c) The firearms dealer has conveyed the information from the completed notification form to the department of justice as required by rule under sub. (2g) (b) and requested a firearms restrictions record search.

(d) Forty–eight hours, subject to extension under sub. (2g) (c) 4. c., have elapsed from the time that the firearms dealer has received a confirmation number regarding the firearms restrictions record search under sub. (2g) (c) from the department of justice and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29.

(2e) When a transferee completes the notification form described in sub. (2g) (b), the transferee shall provide truthful information.

(2f) When a firearms dealer requests that the department of justice provide a firearms restrictions record search under sub. (2g), he or she shall provide truthful information about his or her status as a firearms dealer and shall provide an accurate firearms dealer identification number obtained under sub. (2h). A person may request that the department provide a firearms restrictions record search under sub. (2g) only if he or she is a firearms dealer.

(2g) (a) The department of justice shall promulgate rules prescribing procedures for a transferee to provide and a firearms dealer to inspect identification containing a photograph of the transferee.

(b) The department of justice shall promulgate rules prescribing a notification form for use under sub. (2) requiring the transferee to provide his or her name, date of birth, gender, race and social security number and other identification necessary to permit an accurate firearms restrictions record search under par. (c) 3. and the required notification under par. (c) 4. The department of justice shall make the forms available at locations throughout the state.

(c) The department of justice shall promulgate rules for firearms restrictions record searches regarding transferees under sub. (2), including procedures for all of the following:

1. A firearms dealer to convey the information from a completed notification form to the department using a toll–free telephone number provided by the department.

2. The department to provide the firearms dealer with a confirmation number confirming the receipt of the information under subd. 1.

3. The department to conduct the firearms restrictions record search regarding the transferee. The rules shall include, but not be limited to, a requirement that the department use the transaction information for management of enforcement system and the national crime information center system.

4. The department to notify the dealer, either during the initial telephone call or as soon thereafter as practicable, of the results of the firearms restrictions record search as follows:

a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique nonapproval number. The department may not disclose to the firearms dealer the reason the transferee is prohibited from possessing a firearm under s. 941.29.

b. If the search indicates that the transferee is not prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique approval number.

c. If the search indicates a felony charge without a recorded disposition, the deadline under sub. (2) (d) is extended to the end of the 3rd complete working day commencing after the day on which the finding is made. The department shall notify the firearms dealer of the extension as soon as practicable. During the extended period, the department shall make every reasonable effort to determine the disposition of the charge and notify the firearms dealer of the results as soon as practicable.

(d) 1. The department of justice shall promulgate rules to convey information in a timely manner to the national instant criminal background check system regarding individuals ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1., 54.10 (3) (f) 1., or 55.12 (10) (a).

2. The department of justice shall promulgate rules to convey information in a timely manner to the national instant criminal background check system regarding the cancellation under s. 51.20 (13) (cv) 1m. c., 51.45 (13) (i) 2. c., 54.10 (3) (f) 2. c., or 55.12 (10) (b) 3. of an order not to possess a firearm.

(2h) Upon the request of any firearms dealer, the department of justice shall provide that firearms dealer with a unique firearms dealer identification number for use under this section.

(2i) The department shall charge a firearms dealer a \$13 fee for each firearms restrictions record search that the firearms dealer requests under sub. (2) (c). The firearms dealer may collect the fee from the transferee. The department may refuse to conduct firearms restrictions record searches for any firearms dealer who fails to pay any fee under this subsection within 30 days after billing by the department.

(2j) A firearms dealer shall maintain the original record of all completed notification forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers that he or she receives regarding firearms restrictions record searches under sub. (2g). The firearms dealer shall mail the duplicate copy of each completed notification form to the department of justice.

(2k) (ag) In this subsection:

1. “Law enforcement agency of a physically adjacent state” has the meaning given in s. 175.46 (1) (b).

2. “Wisconsin law enforcement agency” means a governmental unit of one or more persons employed by this state or a political subdivision of this state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(ar) Except as provided in pars. (b) to (j) and as necessary to administer this section, the department of justice shall do all of the following:

1. Deny access to any record kept under this section.

2. Check each duplicate notification form received under sub. (2j) against the information recorded by the department regarding the corresponding request for a firearms restrictions record search under sub. (2g). If the department previously provided a unique

approval number regarding the request and nothing in the duplicate completed notification form indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall destroy all records regarding that firearms restrictions record search within 30 days after receiving the duplicate form.

(b) Notwithstanding par. (ar), the department of justice may maintain all of the following:

1. Records necessary to comply with federal law.

2. a. Except as provided in subd. 2. b., a log of dates of requests for firearms restrictions record searches under sub. (2g) together with confirmation numbers, unique approval and nonapproval numbers and firearms dealer identification numbers corresponding to those dates.

b. Within 3 years after the department issues a unique approval number, the department shall destroy all corresponding information contained in the log under subd. 2. a.

3. Records necessary to administer this section.

(c) Notwithstanding par. (ar), the department of justice shall provide access to any record under this section under all of the following circumstances:

1. The department of justice receives a record request that is submitted in writing by a Wisconsin law enforcement agency.

2. The request submitted under subd. 1. appears on the Wisconsin law enforcement agency’s letterhead and contains all of the following:

a. A statement that the Wisconsin law enforcement agency is conducting an investigation of a crime in which a handgun was used or was attempted to be used or was unlawfully possessed.

b. A statement by a division commander or higher authority within the Wisconsin law enforcement agency that he or she has a reasonable suspicion that the person who is the subject of the information request has obtained or is attempting to obtain a handgun.

c. The signature of a division commander or higher authority within the Wisconsin law enforcement agency.

(d) Whenever a Wisconsin law enforcement agency makes a request for information under par. (c), the agency shall report to the subject of the information request the fact that a request has been made and the name of the Wisconsin law enforcement agency that made the request. The agency shall make the report whenever the earliest of the following occurs:

1. The person who is the subject of the information request under par. (c) 2. b. is no longer material to the investigation conducted under par. (c) 2. a.

2. The Wisconsin law enforcement agency has completed its investigation under par. (c) 2. a.

3. One year after the date that the Wisconsin law enforcement agency made the request under par. (c).

(e) A Wisconsin law enforcement agency may disclose information that is provided by the department of justice under par. (c) to another law enforcement agency. If there is a request for information from a requester other than a law enforcement agency, the Wisconsin law enforcement agency shall not disclose information to the requester that is provided by the department of justice under par. (c). If there is a request by a requester other than a law enforcement agency to copy or inspect any record of the Wisconsin law enforcement agency that contains that information, the agency, acting under s. 19.36 (6), shall delete any portion of the record that relates to that information before release.

(f) A Wisconsin law enforcement agency that is provided access to a record under par. (c) shall destroy all corresponding information contained in the record when the earliest of the following occurs:

1. The person who is the subject of the information request under par. (c) 2. b. is no longer material to the investigation conducted under par. (c) 2. a.

2. The Wisconsin law enforcement agency has completed its investigation under par. (c) 2. a.

3. One year after the date the Wisconsin law enforcement agency made the request under par. (c).

(g) If a search conducted under sub. (2g) indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has attempted to obtain a handgun.

(h) If a search conducted under sub. (2g) indicates a felony charge without a recorded disposition and the attorney general or his or her designee has reasonable grounds to believe the transferee may pose a danger to himself, herself or another, the attorney general or his or her designee may disclose to a law enforcement agency that the transferee has obtained or has attempted to obtain a handgun.

(i) The department of justice may not charge a fee for any services that the department provides under pars. (c) to (j).

(j) If a law enforcement agency of a physically adjacent state makes a request under par. (c), the department shall comply with the request under all of the following circumstances:

1. The law enforcement agency of the physically adjacent state agrees to comply with all the requirements under this subsection.

2. The physically adjacent state allows Wisconsin law enforcement agencies similar or greater access to similar information from that physically adjacent state.

**(2L)** The department of justice shall promulgate rules providing for the review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right to purchase a handgun because the firearms dealer received a nonapproval number under sub. (2g) (c) 4. a. may request a firearms restrictions record search review under those rules. If the person disagrees with the results of that review, the person may file an appeal under rules promulgated by the department.

**(2t)** This section does not apply to any of the following:

(a) Transfers of any handgun classified as an antique by regulations of the U.S. department of the treasury.

(b) Transfers of any handgun between firearms dealers or between wholesalers and dealers.

(c) Transfers of any handgun to law enforcement or armed services agencies.

**(3)** Any person who intentionally violates sub. (2), (2e), (2f) or (2j) shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than 9 months.

**History:** 1975 c. 167; 1991 a. 11; 1993 a. 16, 195, 196; 1995 a. 71, 77, 159, 306; 2005 a. 155, 344; 2009 a. 28, 258.

**Cross-reference:** See also ch. Jus 10, Wis. adm. code.

### 175.37 Warning whenever transferring a firearm.

**(1)** Upon the retail commercial sale or retail commercial transfer of any firearm, the seller or transferor shall provide to the buyer or transferee the following written warning in block letters not less than one-fourth inch in height: "IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD YOU MAY BE FINED OR IMPRISONED OR BOTH IF THE CHILD IMPROPERLY DISCHARGES, POSSESSES OR EXHIBITS THE FIREARM."

**(2)** Any person who violates sub. (1) may be fined not more than \$500 or imprisoned for not more than 30 days or both.

**History:** 1991 a. 139.

### 175.38 Enforcement of video gambling law. (1) In this section, "law enforcement officer" has the meaning given in s. 165.85 (2) (c) but does not include a special agent of the department of revenue.

**(2)** Notwithstanding s. 945.041, no law enforcement officer may investigate violations of or otherwise enforce s. 945.03 (2m) or 945.04 (2m).

**(3)** No law enforcement officer may investigate violations of or otherwise enforce s. 945.05 (1m) unless he or she reasonably

believes that the video gambling machine involved may be used in connection with a violation of ch. 945 other than a violation of s. 945.03 (2m) or 945.04 (2m).

**History:** 2003 a. 33.

### 175.40 Arrests; assistance. (1) In this section:

(a) "Highway" has the meaning specified in s. 340.01 (22).

(b) "Intersection" has the meaning specified in s. 340.01 (25).

(bn) "Law enforcement officer" has the meaning specified in s. 165.85 (2) (c).

(c) "Peace officer" has the meaning specified in s. 939.22 (22), but does not include a commission warden, as defined in s. 939.22 (5). "Peace officer" includes any tribal law enforcement officer who is empowered to act under s. 165.92 (2) (a).

**(2)** For purposes of civil and criminal liability, any peace officer may, when in fresh pursuit, follow anywhere in the state and arrest any person for the violation of any law or ordinance the officer is authorized to enforce.

**(3)** For purposes of civil and criminal liability, any peace officer outside his or her territorial jurisdiction acting under sub. (2) is considered to be acting in an official capacity while in fresh pursuit under sub. (2), making an arrest under sub. (2) or transporting a person arrested under sub. (2).

**(4)** A peace officer whose boundary is a highway may enforce any law or ordinance that he or she is otherwise authorized to enforce by arrest or issuance of a citation on the entire width of such a highway and on the entire intersection of such a highway and a highway located in an adjacent jurisdiction. This subsection does not extend an officer's jurisdiction outside the boundaries of this state.

**(5)** (a) For any county having a population of 500,000 or more, if any law enforcement officer has territorial jurisdiction that is wholly or partially within that county and has authority to arrest a person within the officer's territorial jurisdiction, the officer may arrest that person anywhere in the county.

(b) A law enforcement officer specified in par. (a) has the additional arrest authority under this subsection only if the officer's law enforcement agency has adopted policies under par. (d) and the officer complies with those policies.

(c) A law enforcement agency in the jurisdiction where a person is arrested under par. (a) is immune from liability for the acts or omissions of any officer of a different law enforcement agency exercising authority under par. (a).

(d) In order to allow its officers to exercise authority under par. (a), a law enforcement agency for a municipality or county must adopt and implement written policies regarding the arrest authority under this subsection, including at least all of the following:

1. Investigations conducted in another jurisdiction.

2. Arrests made in another jurisdiction if the crime is observed by a law enforcement officer.

3. Arrests made in another jurisdiction if the crime is not observed by a law enforcement officer.

4. Notification to and cooperation with the law enforcement agency of another jurisdiction regarding investigations conducted and arrests made in the other jurisdiction.

(e) The authority under this subsection is in addition to any other arrest authority, including authority granted under any charter.

**(6)** (a) A peace officer outside of his or her territorial jurisdiction may arrest a person or provide aid or assistance anywhere in the state if the criteria under subds. 1. to 3. are met:

1. The officer is on duty and on official business.

2. The officer is taking action that he or she would be authorized to take under the same circumstances in his or her territorial jurisdiction.

3. The officer is acting to respond to any of the following:

a. An emergency situation that poses a significant threat to life or of bodily harm.

b. Acts that the officer believes, on reasonable grounds, constitute a felony.

(b) A peace officer specified in par. (a) has the additional arrest and other authority under this subsection only if the peace officer's supervisory agency has adopted policies under par. (d) and the officer complies with those policies.

(c) For purposes of civil and criminal liability, any peace officer outside of his or her territorial jurisdiction acting under par. (a) is considered to be acting in an official capacity.

(d) In order to allow a peace officer to exercise authority under par. (a), the peace officer's supervisory agency must adopt and implement written policies regarding the arrest and other authority under this subsection, including at least a policy on notification to and cooperation with the law enforcement agency of another jurisdiction regarding arrests made and other actions taken in the other jurisdiction.

**(6m)** (a) An off-duty peace officer may arrest a person or provide aid or assistance outside of his or her territorial jurisdiction but in the state if all of the following apply:

1. The officer is responding to an emergency situation that poses a significant threat to life or of bodily harm.

2. The officer is taking action that he or she would be authorized to take under the same circumstances in the officer's territorial jurisdiction.

3. The officer's supervising agency has adopted written policies authorizing off-duty officers to make arrests or provide aid or assistance outside of the agency's territorial jurisdiction but in the state, and the policies at a minimum address all of the following:

a. Reasonable responses to an emergency situation under subd. 1.

b. Arrests made in response to an emergency situation under subd. 1.

c. Notification of and cooperation with a law enforcement agency of another jurisdiction regarding arrests made and other actions taken in the other jurisdiction.

4. The officer's action is in compliance with the policies under subd. 3.

(b) A supervising agency may limit its officer's authority to act under this subsection by including limitations in the written policies under par. (a) 3.

(c) 1. For purposes of civil and criminal liability and for purposes of s. 895.46, an off-duty peace officer acting outside the officer's jurisdiction as authorized under this subsection is considered to be acting in an official capacity as an officer of the state, state employee, or agent of the state.

2. For purposes of worker's compensation under ch. 102, an off-duty peace officer acting outside the officer's territorial jurisdiction as authorized under this subsection is considered to be an employee of the state and the officer is eligible for the same benefits as if the officer had sustained the injury while performing services growing out of and incidental to the officer's employment with the employing supervisory agency.

3. An off-duty peace officer acting outside the officer's territorial jurisdiction as authorized under this subsection is considered to be performing his or her duty and engaging in his or her occupation.

4. By no later than 30 days after the end of each calendar quarter, the department of administration shall submit a report to the joint committee on finance detailing all moneys expended or encumbered from the appropriation account under s. 20.505 (2) (am) during that calendar quarter for costs and judgments under subd. 1. or 2.

**(7)** (a) In this subsection:

1. "Federal law enforcement officer" means a person employed full-time by the federal government who may make an arrest with or without a warrant for a violation of the U.S. Code

and who may carry a firearm in the performance of the person's duties.

2. "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1) (f).

3. "Wisconsin law enforcement officer" has the meaning given in s. 175.46 (1) (g).

(b) A federal law enforcement officer, while engaged in the performance of official duties, may do any of the following anywhere in the state:

1. Make an arrest for a violation of state law or render aid or assistance if the officer has reasonable grounds for believing that a felony has been or is being committed in his or her presence and has reasonable grounds for believing that the person to be arrested has committed the felony.

2. Render assistance to a Wisconsin law enforcement officer in an emergency or at the request of the Wisconsin law enforcement officer.

(c) A federal law enforcement officer acting under par. (b) has any immunity from liability or limit on liability to the same extent as a Wisconsin law enforcement officer.

(d) No federal law enforcement officer, acting solely under the authority under par. (b), may be considered, for liability purposes, as an employee or agent of this state or any Wisconsin law enforcement agency for his or her actions within this state. The federal law enforcement officer is considered as continuing to be an employee of the agency employing him or her.

(e) This subsection does not limit any authority to act that a federal law enforcement officer has under federal law.

**History:** 1981 c. 324; 1987 a. 231, 399, 403; 1991 a. 135; 1993 a. 98, 407; 1995 a. 337; 2005 a. 414; 2007 a. 20, 27.

A motorist, injured while fleeing police was, as matter of law, more negligent than pursuing officer. *Brunette v. Employers Mut. Liability Ins. Co.* 107 Wis. 2d 361, 320 N.W.2d 43 (Ct. App. 1982).

To determine whether an officer acts in "fresh pursuit" under sub. (2) three criteria are considered: 1) whether officer acted without unnecessary delay; 2) whether pursuit is continuous; and 3) whether the time periods were reasonable. *City of Brookfield v. Collar*, 148 Wis. 2d 839, 436 N.W.2d 911 (Ct. App. 1989).

Sub. (4) permits enforcement of one municipality's ordinance on the entire width of a boundary highway. *City of Brookfield v. Berghauer*, 170 Wis. 2d 603, 489 N.W.2d 695 (Ct. App. 1992).

In addition to issuing a citation for an observed violation, an officer, after observing a traffic violation and pursuing the defendant into another jurisdiction where the stop was made, was entitled to question the defendant beyond the purpose for which the stop was made and to issue citations for other violations when additional suspicious factors came to the officer's attention during the stop. *State v. Haynes*, 2001 WI App 266, 248 Wis. 2d 724, 638 N.W.2d 82, 00-3083.

Suppression is not required when a police officer acts without authority outside his or her jurisdiction. Suppression is not required except when evidence is obtained in violation of a constitutional right or in violation of a statute providing suppression as a remedy. *State v. Keith*, 2003 WI App 47, 260 Wis. 2d 592, 659 N.W.2d 403, 02-0583.

*Municipal Police Officers Right to Stop and Arrest in Foreign Jurisdictions.* Kershak. Wis. Law. Dec. 1992.

#### **175.41 Arrest and assistance; wardens employed by the Great Lakes Indian Fish and Wildlife Commission.**

**(1)** In this section:

(a) "Ceded territory" means the territory in Wisconsin ceded by the Chippewa Indians to the United States in the treaty of 1837, 7 Stat. 536, and the treaty of 1842, 7 Stat. 591.

(b) "Commission" means the Great Lakes Indian Fish and Wildlife Commission.

(c) "Commission warden" means a conservation warden employed by the commission.

**(2)** For purposes of civil and criminal liability, a commission warden may, when in fresh pursuit, follow anywhere in the state outside the ceded territory and arrest any of the following:

(a) A Chippewa tribal member for violation of the Chippewa off-reservation conservation code, if the conditions of sub. (3) (a) and (e) are met.

(b) Any person for violation of the laws of this state, if the conditions of sub. (3) (a) to (e) are met.

**(3)** Within the ceded territory, a commission warden may arrest a person for violation of state law or provide aid or assist-

ance to a Wisconsin peace officer if all of the following criteria are met:

- (a) The commission warden is on duty and on official business.
- (b) Any of the following applies:
  1. The commission warden is responding to any of the following:
    - a. An emergency situation that poses a significant threat to life or a significant threat of bodily harm.
    - b. Acts that the commission warden believes, on reasonable grounds, constitute a felony.
  2. The commission warden is rendering aid or assistance to a Wisconsin peace officer in an emergency or at the request of the Wisconsin peace officer.
- (c) The commission warden meets the requirements of s. 165.85 (4) (b) 1., (bn) 1., and (c) and has agreed to accept the duties of a law enforcement officer under the laws of this state.
- (d) The commission has adopted and implemented written policies regarding making arrests and rendering aid or assistance under this subsection, including a policy on notification to and cooperation with the law enforcement agency of the jurisdiction in which such arrests are made.
- (e) The commission maintains liability insurance that does all of the following:
  1. Covers the commission and commission wardens for acts and omissions under sub. (4).
  2. Has a limit of coverage not less than \$2,000,000 for any occurrence.
  3. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.
- (4) Except as otherwise provided in an agreement between the commission and the state or a subdivision of the state, the commission is liable for all acts and omissions of a commission warden while acting under sub. (2) or (3), and neither the state nor any political subdivision of the state may be held liable for any action of a commission warden taken under the authority of sub. (2) or (3). For purposes of civil and criminal liability, a commission warden acting under sub. (2) or (3) is considered to be acting in an official capacity.
- (5) Subsections (2) and (3) apply only if the commission has presented evidence to the department of justice of the insurance under sub. (3) (e). Upon receipt of evidence of insurance under sub. (3) (e), the department of justice shall notify the sheriff of each county in the ceded territory that the commission has met this criterion for performing the powers and duties described under subs. (2) and (3).

**History:** 2007 a. 27.

**175.46 Mutual aid agreements. (1)** In this section:

- (a) “Border county” means any of the following:
  1. Any Wisconsin county that has land that is within 5 miles from any land of a physically adjacent state, as measured, where applicable, by any land that is above the ordinary high water mark.
  2. Any county of a physically adjacent state which county has land that is within 5 miles from any land of Wisconsin, as measured, where applicable, by any land that is above the ordinary high water mark.
- (b) “Law enforcement agency of a physically adjacent state” means a governmental unit of one or more persons employed by a physically adjacent state or a political subdivision of a physically adjacent state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.
- (c) “Law enforcement officer of a physically adjacent state” means any person employed by a physically adjacent state or any political subdivision of a physically adjacent state, for the purpose

of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

- (d) “Physically adjacent state” means Minnesota, Iowa, Illinois or Michigan.
- (e) “Political subdivision” means a county, city, village or town.
- (f) “Wisconsin law enforcement agency” means a governmental unit of one or more persons employed by this state or a political subdivision of this state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.
- (g) “Wisconsin law enforcement officer” means any person employed by this state or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

(2) Except as provided in sub. (8), a Wisconsin law enforcement agency may enter into a mutual aid agreement with a law enforcement agency of a physically adjacent state authorizing one or more of the following:

- (a) Law enforcement officers of the law enforcement agency of the physically adjacent state to act with some or all of the arrest and other police authority of a law enforcement officer of the Wisconsin law enforcement agency while within the Wisconsin law enforcement agency’s territorial jurisdiction and within a border county.
- (b) Law enforcement officers of the Wisconsin law enforcement agency to act with some or all of the arrest and other police authority of a law enforcement officer of the law enforcement agency of the physically adjacent state while within that agency’s territorial jurisdiction and within a border county.
- (3) An agreement under this section shall be written and may be on an individual case-by-case basis or may be on a continuing basis until terminated by either agency.
- (4) An agreement under this section may grant authority to an officer only to enforce laws and make arrests for violations of laws that are similar to the types of laws that he or she is authorized to enforce or make arrests for regarding violations of in his or her home state.

(5) (a) Except as provided in par. (b), any agreement under this section shall provide that any Wisconsin law enforcement officer, acting under the agreement in another state, shall continue to be covered by his or her employing agency for purposes of worker’s compensation, unemployment insurance, benefits under ch. 40 and civil liability and any officer of another state acting in Wisconsin under the agreement shall continue to be covered for worker’s compensation, unemployment insurance, disability and other employee benefits and civil liability purposes by his or her employing agency in his or her home state. Any Wisconsin officer acting within an adjoining state, under the agreement, is considered while so acting to be in the ordinary course of his or her employment with his or her employing Wisconsin law enforcement agency.

(b) An agreement under this section shall provide that any Wisconsin law enforcement officer, acting under the agreement in another state, is subject to any immunity from liability or limit on liability to the same extent as any officer of the other state. An agreement under this section shall provide that any law enforcement officer of another state, acting under the agreement in Wisconsin, is subject to any immunity from liability or limit on liability to the same extent as a Wisconsin law enforcement officer.

(6) No law enforcement officer of a physically adjacent state, acting under an agreement under this section, may be considered, for liability purposes, as an employee or agent of this state or any Wisconsin law enforcement agency for his or her actions within this state regardless of the supervision or control of the officer’s

actions while within this state. The officer of the physically adjacent state is considered as continuing to be an employee of the agency employing him or her in the officer's home state.

(7) Any agreement under this section entered into by a Wisconsin law enforcement agency may include any terms and conditions considered appropriate by that agency, except the agreement shall comply with this section.

(8) At least 30 days prior to entering into an agreement under sub. (2), a Wisconsin law enforcement agency shall submit a copy of the proposed agreement to the department of justice for the department's review and comment. The department shall provide its comments to the Wisconsin law enforcement agency within 21 days after the department receives the proposed agreement. The Wisconsin law enforcement agency need not have the consent of the department to enter into the agreement. The Wisconsin law enforcement agency may revise the proposed agreement without having to resubmit the proposed agreement to the department.

**History:** 1993 a. 49; 1993 a. 490 s. 154; Stats. 1993 s. 175.46; 1997 a. 39.

**175.50 Eyewitness identification procedures.** (1) In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(b) "Suspect" means a person suspected of committing a crime.

(2) Each law enforcement agency shall adopt written policies for using an eyewitness to identify a suspect upon viewing the suspect in person or upon viewing a representation of the suspect.

The policies shall be designed to reduce the potential for erroneous identifications by eyewitnesses in criminal cases.

(3) A law enforcement agency shall biennially review policies adopted under this section.

(4) In developing and revising policies under this section, a law enforcement agency shall consider model policies and policies adopted by other jurisdictions.

(5) A law enforcement agency shall consider including in policies adopted under this section practices to enhance the objectivity and reliability of eyewitness identifications and to minimize the possibility of mistaken identifications, including the following:

(a) To the extent feasible, having a person who does not know the identity of the suspect administer the eyewitness' viewing of individuals or representations.

(b) To the extent feasible, showing individuals or representations sequentially rather than simultaneously to an eyewitness.

(c) Minimizing factors that influence an eyewitness to identify a suspect or overstate his or her confidence level in identifying a suspect, including verbal or nonverbal reactions of the person administering the eyewitness' viewing of individuals or representations.

(d) Documenting the procedure by which the eyewitness views the suspect or a representation of the suspect and documenting the results or outcome of the procedure.

**History:** 2005 a. 60.

Instituting Innocence Reform: Wisconsin's New Government Experiment. Kruse. 2006 WLR 645.