



STATE OF WISCONSIN
Department of Justice

**ORDER ADOPTING EMERGENCY RULES
DOJ-2011-01**

INTRODUCTORY CLAUSE

The State of Wisconsin Department of Justice (“DOJ”) proposes an order to create chapter Jus 17 and chapter Jus 18 relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; and the certification of firearms safety and training instructors.

TEXT OF THE PROPOSED RULES

SECTION 1. Chapter Jus 17 is created and titled:

CHAPTER JUS 17: LICENSES TO CARRY CONCEALED WEAPONS

SECTION 2. Jus 17.01 is created to read:

Jus 17.01 Purpose. The purpose of this chapter is to establish standards and procedures, as required under s. 175.60, Stats., for the issuance and administration of licenses authorizing persons to carry concealed weapons, the review of licensing decisions by the department, and the certification of firearms safety and training instructors.

SECTION 3. Jus 17.02 is created to read:

Jus 17.02 Applicability.

(1) Except as provided in sub. (2), this chapter applies to the issuance and administration of all licenses to carry concealed weapons issued by the department pursuant to s. 175.60, Stats.

(2) This chapter does not apply to any of the following:

(a) Certification of former law enforcement officers to carry concealed weapons pursuant to s. 175.49(2), Stats.

(b) Certification of former federal law enforcement officers to carry concealed weapons pursuant to s. 175.49(3), Stats.

(c) The carrying of concealed weapons by active law enforcement officers.

SECTION 4. Jus 17.03 is created to read:

Jus 17.03 Definitions. In this chapter:

(1) “Applicant” means an individual applying for a license to carry a concealed weapon pursuant to s. 175.60, Stats., and to whom no license has yet been issued.

(2) “Approval number” means the unique number the department assigns to an applicant pursuant to s. 175.60(9g)(a)3.b., Stats., when a completed background check on the applicant indicates that s. 175.60(3)(b), (c), (d), and (e), Stats., do not apply to the applicant.

(3) “Background check” means the review of an applicant’s record conducted by the department pursuant to s. 175.60(9g), Stats., for the purpose of determining whether s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant.

(4) “Confirmation number” means the unique number the department issues pursuant to s. 175.60(9g)(a)1., Stats., to identify every accepted application for a license to carry a concealed weapon.

(5) “Current and valid” means that a driver’s license or state identification card is not expired, cancelled, denied, surrendered, or voided and the holder is currently a resident of

Wisconsin. A driver's license is current and valid even if the holder's motor vehicle operating privilege is revoked, suspended, or disqualified, as long as the card is not expired, cancelled, denied, surrendered, or voided, and the holder is a resident of Wisconsin.

(6) "Department" means the Wisconsin department of justice.

(7) "FBI" means the federal bureau of investigation.

(8) "Firearms safety or training course" means a course that is reasonably calculated to instruct, practice, and test the student's comprehension and application of firearm safety rules and safe firearm handling, that includes at least four hours of instructor-led training, and that provides a certificate or affidavit of successful completion that satisfies the content requirements of s. Jus 17.05(2).

(9) "Instructor-led" means training that is conducted face-to-face in which instructors actively guide students through each lesson, answer questions, facilitate discussion, and provide feedback on activities and/or assignments. Learner-led or self-directed learning—the delivery of learning experiences to independent learners who lead and manage their own experience, delivered via web pages, multimedia presentations, computer applications, online presentations, or similar methods—is not instructor-led.

(10) "Law enforcement agency" has the meaning given in s. 165.83(1), Stats.

(11) "License number" means the unique identification number the department assigns to a licensee pursuant to s. 175.60(2m)(b)6., Stats., when it issues a license.

(12) "Licensee" means a person who has been issued a license to carry a concealed weapon under s. 175.60, Stats.

(13) "National or state organization that certifies firearms instructors" means any association, partnership, corporation, or limited liability company that is registered, certified, or

has an appointed agent on file with the department of financial institutions or has equivalent legal recognition in another state; that requires firearms instructors to successfully complete instructor training of at least eight hours in length; and that requires instructors to demonstrate the ability and knowledge required for providing firearms safety and training.

(14) “NICS” means the National Instant Criminal Background Check System of the FBI.

(15) “Non-approval number” means the unique number the department assigns to an applicant pursuant to s. 175.60(9g)(a)3.a., Stats., when a completed background check on the applicant indicates that s. 175.60(b), (c), (d), or (e), Stats., applies to the applicant.

(16) “Record” means the records associated with a licensee or applicant that are available for the department to search when conducting a background check pursuant to s. 175.60(9g), Stats., including court records, state criminal history records, and national criminal history records maintained by the FBI, including but not limited to NICS records.

(17) “Search” means a systematic inspection by the department of the record of an applicant or licensee.

(18) “Weapon” has the meaning given in s. 175.60(1)(j), Stats.

SECTION 5. Jus 17.04 is created to read:

Jus 17.04 Application procedures for concealed weapon licenses.

(1) When the department receives an application for a license to carry concealed weapons under s. 175.60(7), Stats., the department shall do the following in the sequence listed:

(a) Review the application for completeness. An application is complete when the department has received all of the items, including fees, listed in s. 175.60(7)(a)-(e), Stats. If an application is complete, the department shall proceed under par. (b). If an application is

incomplete, the department shall reject it and shall send written notice of the rejection to the applicant at the residence address provided by the applicant in the application form. The notice of rejection shall explain why the application was found to be incomplete and what must be submitted to complete the application.

(b) Confirm that the state identification card number submitted by the applicant corresponds to a driver's license or state identification card that is current and valid, as defined in s. Jus 17.03(5). If the applicant's driver's license or state identification card is current and valid, the department shall proceed under par. (c). If the applicant's driver's license or state identification card is not current and valid, the department shall deny the application and proceed under sub. (2).

(c) Review the application for eligibility under s. 175.60(3)(a) and (f), Stats. If the applicant is at least 21 years of age and is a Wisconsin resident, the department shall proceed under par. (d). If the applicant is less than 21 years of age or is not a Wisconsin resident, the department shall deny the application and proceed under sub. (2).

(d) Review the proof of training submitted by the applicant for compliance with the requirements of s. 175.60(4)(a), Stats., and s. Jus 17.05. If the proof of training meets all of those requirements, the department shall proceed under par. (e). If the proof of training fails to meet any of those requirements, the department shall deny the application and proceed under sub. (2).

(e) Enter the application data into the department's license record keeping system, assign the applicant a confirmation number, and proceed under par. (f).

(f) Conduct a background check of the applicant pursuant to s. 175.60(9g), Stats., for the purpose of determining whether issuance of a license to the applicant is prohibited under

s. 175.60(3)(b), (c), (d), or (e), Stats. If issuance of a license is not prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats., the department shall issue the license, assign a license number to the licensee, and promptly send the license document to the licensee by 1st class mail. If issuance of a license is prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats., the department shall deny the application and proceed under sub. (2).

(2) If an application is denied under sub. (1)(b), (c), (d), or (f), the department shall inform the applicant in writing of the denial. The notice of denial shall state the reasons and factual basis for the denial decision and shall be accompanied by a copy of any background check records supporting the denial. The notice of denial shall also advise the applicant of the right to seek administrative review of the denial decision under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats. The notice of denial shall be sent to the applicant by a method of shipment that provides confirmation of delivery, including the date of delivery.

SECTION 6. Jus 17.05 is created to read:

Jus 17.05 Training and documentation requirements.

(1) The following forms of documentation shall be accepted by the department as adequate proof of training sufficient to satisfy the training requirements of s. 175.60(4)(a), Stats., and of this section:

(a) A certificate or affidavit documenting that the applicant has successfully completed the department of natural resources' hunter education program or a substantially similar program that is established by another state, country, or province and is recognized by the department of natural resources.

(b) A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course conducted by a national or state organization that

certifies firearms instructors. The certificate or affidavit must satisfy the content requirements of sub. (2) and must affirm that the organization that conducted the course is an organization that certifies firearms instructors.

(c) A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course that is available to the public and offered by a law enforcement agency. The certificate or affidavit must satisfy the content requirements of sub. (2) and must affirm that the course is one that is available to the public.

(d) A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course that is available to the public and offered by a technical college, college, university, private or public institution or organization, or firearms training school. The certificate or affidavit must satisfy the content requirements of sub. (2), must affirm that the course was taught by an instructor who is certified either by the department or by a national or state organization that certifies firearms instructors, and must identify the certifying organization by name.

(e) A certificate or affidavit documenting that the applicant has successfully completed a firearms training course that is offered to law enforcement officers and is certified by the law enforcement standards board or a certificate from an agency of another state documenting that the applicant has successfully completed substantially equivalent training. The certificate or affidavit must satisfy the content requirements of sub. (2) except that, notwithstanding the requirements of sub. (2), a copy of an educational transcript of the applicant showing successful completion of the requisite training shall suffice to satisfy this requirement.

(f) A certificate or affidavit documenting that the applicant has successfully completed a firearms training course that is offered to owners and employees of private detective

and security agencies licensed by the department of safety and professional services under s. 440.26, Stats., or a certificate from an agency of another state documenting that the applicant has successfully completed substantially equivalent training. The certificate or affidavit must satisfy the content requirements of sub. (2).

(g) A certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course that is conducted by an instructor who is certified either by the department or by a national or state organization that certifies firearms instructors. The certificate or affidavit must satisfy the content requirements of sub. (2), must affirm that the instructor is certified either by the department or by a national or state organization that certifies firearms instructors, and must identify the certifying organization by name.

(h) A copy of a current or expired license held by the applicant indicating that the applicant is or has been licensed to carry a firearm in this state, in another state, or in a county or municipality of this state or of another state, provided that the current or expired license has not been revoked for cause. The copy of the current or expired license must be accompanied by the applicant's signed affirmation that the current or expired license has not been revoked for cause. This affirmation shall be submitted on an affirmation form that shall be prepared by the department and made available to the public on the department's Internet site.

(i) A copy of a DD Form 214, "Certificate of Release or Discharge from Active Duty," issued by the United States Department of Defense, showing that the applicant has received an honorable discharge or a general discharge under honorable conditions from the United States armed forces, reserves, or national guard after completion of basic training or a certificate of completion of basic training with a service record of successful completion of small arms training and certification.

(2) Except as otherwise provided in sub. (1), for purposes of satisfying the requirements of sub. (1)(b), (c), (d), (e), (f), or (g), a certificate or affidavit documenting that the applicant has successfully completed a firearms safety or training course must include all of the following information:

(a) The applicant's name.

(b) The name of the firearms safety or training course.

(c) The length in hours of the firearms safety or training course.

(d) The date on which the applicant completed the firearms safety or training course.

(e) The city and state in which the applicant completed the firearms safety or training course.

(f) The name, address, and telephone number of the person or entity responsible for the firearms safety or training course. This may be an individual instructor, a national or state organization, a law enforcement agency, an educational institution, a firearms training school, or another public or private institution or organization.

(g) The name of the instructor who taught the firearms safety or training course to the applicant and the name of the agency or organization that certified the instructor.

(h) A signed statement by the instructor who taught the firearms safety or training course to the applicant affirming that the course satisfied the definition of a firearms safety or training course in s. Jus 17.03(8) and that the applicant successfully completed the course. An affirmation that the applicant merely attended the course is not sufficient to satisfy this requirement.

(3) The department shall prepare and make available to the public on its Internet site a model training certificate that provides for the information required under sub. (2).

(4) The department shall prepare a training curriculum for a firearms safety or training course, as that term is defined in s. Jus 17.03(8), and shall make that curriculum available for the use of firearms instructors who are certified by the department pursuant to s. Jus 17.06. Instructors who are not certified by the department may use that curriculum in preparing and conducting their own courses, but they shall not represent themselves or their courses as certified or approved by the department.

SECTION 7. Jus 17.06 is created to read:

Jus 17.06 Firearms instructors certified by the department.

(1) An individual shall be certified by the department as a firearms instructor for purposes of s. 175.60(4)(b)1., Stats., if the individual is certified as a law enforcement firearms instructor by the law enforcement standards board and the individual is eligible to carry a concealed weapon under s. 175.60(3), Stats. The individual's certification by the department under s. 175.60(4)(b)1., Stats., shall be in effect only when the individual's certification by the law enforcement standards board is in effect. Renewal of an individual's instructor certification by the law enforcement standards board shall automatically renew the individual's certification under this section.

(2) If a firearms instructor certified by the department under sub. (1) at any time becomes ineligible to carry a concealed weapon under s. 175.60(3), Stats., the instructor shall, within 48 hours, notify the department's training and standards bureau of the circumstances giving rise to the ineligibility. The training and standards bureau shall immediately suspend the instructor's certification under sub. (1) and shall provide notice of that suspension to the department's crime information bureau. The suspension shall remain in effect for as long as the individual remains ineligible to carry a concealed weapon under s. 175.60(3), Stats.

(3) A firearms instructor certified by the department under sub. (1), when teaching a firearms safety or training course under the authority of that certification, shall use the training curriculum provided by the department pursuant to s. Jus 17.05(4) and a training certificate in a form approved and supplied by the department.

SECTION 8. Jus 17.07 is created to read:

Jus 17.07 License revocation or suspension.

(1) Upon receiving a notice about an individual pursuant to s. 175.60(11)(a), Stats., the department shall immediately check its computerized license records to determine if the individual who is the subject of the notice is a licensee. If the individual is found to be a licensee, the department shall determine whether revocation or suspension of the individual's license is required under s. 175.60(14)(a) or (am), Stats., and shall revoke or suspend the license as required.

(2)(a) If the department at any time revokes or suspends a license under s. 175.60(14)(a) or (am), Stats., the department, within one day, shall send to the individual written notice of the revocation or suspension. The notice shall include a statement of the reasons and factual basis for the revocation or suspension and shall be accompanied by a copy of any pertinent records supporting the revocation or suspension. The notice shall also advise the individual of the right to seek administrative review of the revocation or suspension under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats. The notice shall be sent to the individual by a method of shipment that provides confirmation of delivery, including the date of delivery.

(b) Any notice of a suspension of a license pursuant to s. 175.60(14)(am), Stats., shall also include a statement that if the licensee, at any time, ceases to be subject to the prohibition

underlying the suspension, the licensee may submit to the department authenticated documentation establishing that fact.

(3) Any notice of revocation or suspension issued by the department under sub. (2) shall instruct the individual whose license has been revoked or suspended to do one of the following within 7 days:

(a) Deliver the revoked or suspended license document to the department either personally or by certified mail.

(b) Mail to the department a signed statement indicating that the individual no longer has possession of the revoked or suspended license document and explaining the reasons why he or she no longer has possession.

(4) Any suspension or revocation of a license under s. 175.60(14)(a) or (am), Stats., shall take effect on the date when the individual whose license has been revoked or suspended receives the notice of revocation or suspension under sub. (2).

(5) If the department receives information, pursuant to sub. (2)(b) or by other means, establishing that an individual whose license has been suspended under s. 175.60(14)(am) is no longer subject to the prohibition underlying that suspension, the department shall, within 5 business days of receiving that information, do the following in the sequence listed:

(a) Determine whether the suspended license has expired under s. 175.60(15)(a), Stats. If the suspended license has not expired, the department shall proceed under par. (b). If the suspended license has expired, the department shall notify the individual that the suspended license cannot be reinstated unless the individual first complies with the license renewal requirements of s. 175.60(15), Stats.

(b) Conduct a background check of the individual for the purpose of determining whether reinstatement of the suspended license is prohibited under s. 175.60(3)(b), (c), (d), or (e), Stats. If reinstatement of the suspended license is not prohibited, the department shall proceed under par. (c). If reinstatement of the suspended license is prohibited, the department shall notify the individual in writing of the reason why the suspended license cannot be reinstated and shall include a copy of any background check records supporting the denial of reinstatement. Notice of a denial of reinstatement shall also advise the applicant of the right to seek administrative review under s. Jus 17.09 or judicial review under s. 175.60(14m), Stats., and shall be sent to the applicant by a method of shipment that provides confirmation of delivery, including the date of delivery.

(c) Reinstatement of the suspended license and mail to the individual written notification of that reinstatement. If the individual has previously delivered the suspended license document to the department pursuant to sub. (3)(a), the department shall also promptly return the reinstated license document to the individual by 1st class mail.

(6) If an individual whose concealed carry license has been properly revoked by the department pursuant to s. 175.60(14)(a), Stats., wishes to again carry a concealed weapon pursuant to s. 175.60, Stats., the individual must apply for a new license pursuant to s. Jus 17.04 and must satisfy all requirements of that section, including the payment of all applicable fees.

SECTION 9. Jus 17.08 is created to read:

Jus 17.08 Changes or updates to licenses.

(1) CHANGE OF ADDRESS. Upon receiving notice of a change of address from a licensee pursuant to s. 175.60(11)(b)1., Stats., the department shall update its license records

with the new information. At the request of a licensee whose address has changed, the department shall issue the licensee a new license document containing the new address.

(2) NAME CHANGE. No later than 30 days after legally changing his or her name, a licensee shall provide the department with written notification of the name change and shall apply for a new license under the new name. The new license application must satisfy the requirements of s. Jus 17.04 and shall be processed by the department as a new application under that section. In the course of processing the new application, if the department determines that s. 175.60(3)(b), (c), (d), (e), (f), or (g) applies to the licensee, the department shall revoke the licensee's previous license under s. 175.60(14)(a). If the licensee receives a new license from the department under this section, the licensee shall immediately deliver his or her previous license to the department either personally or by certified mail.

(3) FEES.

(a) For any license document issued under this section, the department shall charge the replacement fee provided in s. Jus 17.12(3).

(b) For any background check conducted under this section, the department shall charge the background check fee provided in s. Jus 17.12(2).

SECTION 10. Jus 17.09 is created to read:

Jus 17.09 Administrative review after denial, suspension, or revocation.

(1)(a) After receiving written notice of denial of a license application under s. Jus 17.04(2), written notice of a license revocation or suspension under s. Jus 17.07(2), or written notice of denial of reinstatement of a license under s. Jus 17.07(5)(b), an applicant or licensee may submit to the department a written petition for administrative review of the denial, revocation, or suspension decision. Such a petition for administrative review must be received

by the department within 30 days after the date on which the denial, revocation, or suspension decision was mailed to the applicant or licensee. There is no fee for administrative review of the denial, revocation, or suspension of a license.

(b) 1. A petition for administrative review under par. (a) shall specifically identify any alleged errors in the decision to be reviewed and shall be accompanied by a copy of the decision to be reviewed and by authenticated copies of all supporting documentation that the applicant or licensee wishes the department to consider when conducting the review.

2. If a petition for administrative review alleges that the department has incorrectly determined that s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant or licensee, the supporting materials submitted with the petition shall include proof of the identity of the applicant or licensee. Satisfactory proof of identity shall include a set of rolled-ink fingerprints of the applicant or licensee prepared by a law enforcement agency on a state or FBI fingerprint card. Fingerprints are not required if the petition for administrative review does not allege that the department has incorrectly determined that s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the applicant or licensee.

3. If any alleged error identified in a petition for administrative review is based on the existence or disposition of an apparent criminal arrest or conviction, the petition shall specifically identify any error in any pertinent background check records and shall be accompanied by authenticated copies of any court documents establishing the alleged error.

4. If a petition for administrative review claims that the department has erroneously suspended a license pursuant to s. 175.60(14)(am), Stats., the supporting materials submitted with the petition shall include authenticated copies of any pertinent court records or other pertinent records.

5. If any alleged error identified under subd. 1. is based on a claim that the applicant or licensee has received a pardon or has obtained relief under s. 941.29, s. 51.20(13)(cv)1m., s. 51.45(13)(i)2., s. 54.10(3)(f)2., or s. 55.12(10)(b), Stats., the petition shall be accompanied by authenticated copies of the pardon or court documents establishing any such relief.

(c) 1. If the department receives a timely petition for administrative review, a review proceeding shall be conducted by the attorney general or the attorney general's designee. The review shall be based on consideration of all records in the department's possession related to the decision under review, including: the written notice of denial, revocation, or suspension under review; the petition for administrative review and any supporting documentation submitted by the applicant or licensee; and any other records in the department's possession related to the decision under review.

2. If in the course of a review proceeding under subd. 1., the department determines that additional supporting documentation is needed from the applicant or licensee, the department shall send the applicant or licensee a written request for the additional documentation. While any such request is pending, the time for the department to complete the review proceeding under par. (d) shall be tolled and shall not begin to run again until the applicant or licensee has provided the requested documentation.

(d) 1. No later than 30 days after receiving a petition for administrative review and supporting documentation, the attorney general or the attorney general's designee shall complete the review under par. (c) and shall issue a written decision on behalf of the department either affirming or reversing the denial, revocation, or suspension under review. The written decision shall include the reasons and factual basis for the department's decision and shall advise the applicant or licensee of the right to seek judicial review under s. 175.60(14m), Stats. The written

decision shall be sent to the applicant or licensee by a method of shipment that provides confirmation of delivery, including the date of delivery.

2. If the written decision issued under subd. 1. affirms the denial of a license application, the written decision shall include notification to the applicant that any non-approval number previously issued remains in effect.

3. If the written decision issued under subd. 1. affirms the revocation or suspension of a license, the written decision shall include notification to the licensee that the previously imposed revocation or suspension remains in effect.

4. If the written decision issued under subd. 1. reverses the denial of a license application, the department shall withdraw any previously issued non-approval number and shall issue the license, assign a license number to the licensee, and promptly send the license document to the licensee by 1st class mail. If the department has previously received a set of fingerprints from the applicant, the department shall return those fingerprints to the applicant.

5. If the written decision issued under subd. 1. reverses the revocation or suspension of a license, the department shall reinstate the revoked or suspended license and the written decision shall include notification to the licensee of such reinstatement. If the licensee has previously delivered the revoked or suspended license document to the department pursuant to s. Jus 17.07(3)(a), the department shall promptly return the reinstated license document to the licensee by 1st class mail. If the department has previously received a set of fingerprints from the licensee, the department shall return those fingerprints to the licensee.

6. If the written decision issued under subd. 1. includes a finding that any pertinent background check record is erroneous or incomplete, the department shall take appropriate steps to correct that record.

(e) If the written decision under par. (d)1. affirms the denial, revocation, or suspension of a license and the applicant or licensee does not file a timely petition for judicial review under s. 175.60(14m), Stats., the department shall return to the applicant or licensee any set of fingerprints previously submitted to the department by the applicant or licensee.

SECTION 11. Jus 17.10 is created to read:

Jus 17.10 Emergency Licenses.

(1) A court that is considering a petition for an emergency concealed carry license pursuant to s. 175.60(9r), Stats., or a court that has issued such an emergency license may ask the department to conduct a background check for the purpose of determining whether s. 175.60(3)(b), (c), (d), or (e), Stats., applies to the person requesting or holding the emergency license. Upon receiving such a request, the department shall conduct the background check as soon as reasonably practicable and shall report the results to the requesting court.

(2) Any information that the department receives from a court regarding the issuance or revocation of an emergency concealed carry license under s. 175.60(9r), Stats., shall be entered by the department into its computerized license records and shall be available to law enforcement as provided in s. 175.60(12) and (12g), Stats.

SECTION 12. Jus 17.11 is created to read:

Jus 17.11 Records.

(1) The department shall create and keep the following records related to the issuance and administration of concealed carry licenses under s. 175.60, Stats., the review of licensing decisions by the department, and the certification of firearms safety and training instructors:

(a) All of the information submitted to the department by applicants pursuant to s. 175.60(7), Stats., and notes related to that information.

(b) A record of each rejected application and the reasons for rejection and a count of the number of rejected applications.

(c) The confirmation number for each applicant.

(d) The approval or non-approval number for each applicant on whom the department has conducted a background check.

(e) The license number for each licensee to whom the department has issued a concealed carry license.

(f) A log of each record search of the department's computerized license records, including the date or dates of the search and any confirmation number, license, number, or approval or non-approval number associated with the search.

(g) Records of the cost to the department of issuing concealed carry licenses under s. 175.60, Stats., and this chapter.

(h) All records that the department is required to keep by applicable state or federal laws.

(2) The department may create and keep any other records reasonably necessary for the department to perform its responsibilities under s. 175.60, Stats., and this chapter.

SECTION 13. Jus 17.12 is created to read:

Jus 17.12 Fees.

(1) LICENSE FEE. The license fee charged by the department pursuant to s. 175.60(7)(c), Stats., shall be \$37.

(2) BACKGROUND CHECK FEE. The fee for any background check conducted by the department pursuant to s. Jus 17.04(1)(f) or s. Jus 17.07(5)(b) shall be \$13.

(3) REPLACEMENT FEE. The fee charged by the department for replacing a lost or destroyed license pursuant to s. 175.60(13), Stats., shall be \$12.

SECTION 14. Chapter Jus 18 is created and titled:

CHAPTER JUS 18: CERTIFICATION OF FORMER FEDERAL LAW ENFORCEMENT OFFICERS.

SECTION 15. Jus 18.01 is created to read:

Jus 18.01 Purpose. The purpose of this chapter is to establish standards and procedures for the issuance and administration of concealed carry certification cards to qualified former federal law enforcement officers pursuant to s. 175.49(3), Stats., and the review of certification decisions by the department.

SECTION 16. Jus 18.02 is created to read:

Jus 18.02 Applicability.

(1) Except as provided in sub. (2), this chapter applies to the issuance and administration of all concealed carry certification cards issued by the department to former federal law enforcement officers pursuant to s. 175.49(3), Stats.

(2) This chapter does not apply to any of the following:

(a) Issuance or administration of a license to carry concealed weapons pursuant to s. 175.60, Stats.

(b) Certification of former state or local law enforcement officers to carry concealed weapons pursuant to s. 175.49(2), Stats.

(c) The carrying of concealed weapons by active law enforcement officers.

SECTION 17. Jus 18.03 is created to read:

Jus 18.03 Definitions. In this chapter:

(1) “Applicant” means an individual applying for a concealed carry certification card pursuant to s. 175.49(3), Stats., and to whom no card has yet been issued.

(2) “Approval number” means the unique number the department assigns to an applicant when a completed background check on the applicant indicates that the applicant is not prohibited under federal law from possessing a firearm.

(3) “Background check” means the review of an applicant’s record conducted by the department pursuant to s. 175.49(3)(b)4., Stats., for the purpose of determining whether the applicant is prohibited under federal law from possessing a firearm.

(4) “Certification card number” means the unique identification number the department assigns to a certification card issued under s. 175.49(3), Stats.

(5) “Confirmation number” means the unique number the department issues to identify every accepted application for a concealed carry certification card pursuant to s. 175.49(3), Stats.

(6) “Current and valid” means that a driver’s license or state identification card is not expired, cancelled, denied, surrendered, or voided and the holder is currently a resident of Wisconsin. A driver’s license is current and valid even if the holder’s motor vehicle operating privilege is revoked, suspended, or disqualified, as long as the card is not expired, cancelled, denied, surrendered, or voided, and the holder is a resident of Wisconsin.

(7) “Department” means the Wisconsin department of justice.

(8) “FBI” means the federal bureau of investigation.

(9) “Non-approval number” means the unique number the department assigns to an applicant when a completed background check on the applicant indicates that the applicant is prohibited under federal law from possessing a firearm.

(10) “Record” means the records associated with an applicant or holder of a certification card that are available for the department to search when conducting a background check pursuant to s. 175.49(3)(b)4., Stats., including court records, state criminal history records, and national criminal history records maintained by the FBI.

(11) “Search” means a systematic inspection by the department of the record of an applicant or holder of a certification card.

(12) “Weapon” has the meaning given in s. 175.60(1)(j), Stats.

SECTION 18. Jus 18.04 is created to read:

Jus 18.04 Application procedures for concealed carry certification cards.

(1) When the department receives an application for a concealed carry certification card for a former federal law enforcement officer pursuant to s. 175.49(3), Stats., the department shall do the following in the sequence listed:

(a) 1. Review the application for completeness. An application is complete when the department has received the following:

- a. A signed and fully completed application form, DJ-LE-286.
- b. Acceptable proof of firearms qualification, as provided in s. Jus 18.05.
- c. The application fee required under s. Jus 18.10.
- d. A current photograph meeting the content and format requirements set forth in the instructions of the application form, DJ-LE-286.

e. A written statement from the federal law enforcement agency from which the applicant separated from service affirming that the applicant meets the requirements of s. 175.49(3)(b)1., 2., and 3., Stats. The department shall prepare and make available on its Internet site a statement form that may be used for this purpose.

2. If an application is complete, the department shall proceed under par. (b). If an application is incomplete, the department shall reject it and shall send written notice of the rejection to the applicant at the residence address provided by the applicant in the application form. The notice of rejection shall explain why the application was found to be incomplete and what must be submitted to complete the application.

(b) Confirm that the state identification card number submitted by the applicant corresponds to a driver's license or state identification card that is current and valid, as defined in s. Jus 18.03(6). If the applicant's driver's license or state identification card is current and valid, the department shall proceed under par. (c). If the applicant's driver's license or state identification card is not current and valid, the department shall deny the application and proceed under sub. (2).

(c) Review the written affirmation from the federal law enforcement agency from which the applicant separated from service to determine whether the applicant meets the requirements of s. 175.49(3)(b)1., 2., and 3., Stats. If the applicant meets the requirements of s. 175.49(3)(b)1., 2., and 3., Stats., the department shall proceed under par. (d). If the applicant does not meet the requirements of s. 175.49(3)(b)1., 2., and 3., Stats., the department shall deny the application and proceed under sub. (2).

(d) Review the proof of firearms qualification submitted by the applicant for compliance with the requirements of s. 175.49(3)(b)5., Stats., and s. Jus 18.05. If the proof of

firearms qualification meets those requirements, the department shall proceed under par. (e). If the proof of firearms qualification does not meet those requirements, the department shall deny the application and proceed under sub. (2).

(e) Enter the application data into the department's record keeping system and assign the applicant a confirmation number.

(f) Conduct a background check of the applicant pursuant to s. 175.49(3)(b)4., Stats., for the purpose of determining whether the applicant is prohibited under federal law from possessing a firearm. If the applicant is not prohibited by federal law from possessing a firearm, the department shall issue a certification card to the applicant, assign a certification card number, and promptly send the certification card to the applicant by 1st class mail. If the applicant is prohibited by federal law from possessing a firearm, the department shall deny the application and proceed under sub. (2).

(2) If an application is denied under sub. (1), the department shall inform the applicant in writing of the denial, stating the reasons and factual basis for the denial decision. The written notice of denial shall be accompanied by a copy of any background check records that are pertinent to the denial decision. The written notice of denial shall also advise the applicant of the right to seek administrative review of the denial decision under s. Jus 18.08.

SECTION 19. Jus 18.05 is created to read:

Jus 18.05 Proof of firearms qualification.

Acceptable proof that an applicant has satisfied the firearms qualification requirement of s. 175.49(3)(b)5., Stats., shall consist of a certificate that is signed by a law enforcement firearms instructor who is certified by the law enforcement standards board. The certificate shall be in a form approved and supplied by the department and shall contain all of the following:

(1) The applicant's name.

(2) The full name, address, and telephone number of the certified law enforcement firearms instructor.

(3) An affirmation by the certified law enforcement firearms instructor that he or she has found the applicant to meet the qualification standards established by the state of Wisconsin or by a law enforcement agency in Wisconsin for an active law enforcement officer to carry a firearm of the type specified in the application form submitted by the applicant under s. Jus 18.04.

(4) The date on which the finding under sub. (3) was made.

SECTION 20. Jus 18.06 is created to read:

Jus 18.06 Revocation of a concealed carry certification card.

(1) If the department at any time obtains information establishing that an individual who holds a concealed carry certification card under this chapter is prohibited by federal law from possessing a firearm, the department shall revoke the certification card and shall send the individual written notice of revocation. The notice shall include a statement of the reasons and factual basis for the revocation and shall be accompanied by a copy of any pertinent records supporting the revocation. The notice shall also advise the individual of the right to seek administrative review of the revocation pursuant to s. Jus 18.08.

(2) Any notice of revocation issued by the department under sub. (1) shall instruct the individual whose certification card has been revoked to do one of the following within 7 days:

(a) Deliver the revoked certification card to the department either personally or by certified mail.

(b) Mail to the department a signed statement indicating that the individual no longer has possession of the revoked certification card and explaining the reasons why he or she no longer has possession.

(3) Any revocation of a certification card under this section shall take effect on the date on which the notice of revocation is issued by the department.

(4) If an individual whose concealed carry certification card has been properly revoked by the department pursuant to this section wishes to again obtain a concealed carry certification card pursuant to s. 175.49(3), Stats., the individual must apply for a new certification card pursuant to s. Jus 18.04 and must satisfy all requirements of that section, including the payment of all applicable fees.

SECTION 21. Jus 18.07 is created to read:

Jus 18.07 Changes or updates to certification cards.

(1) CHANGE OF ADDRESS. Any individual who holds a concealed carry certification card under this chapter shall provide the department with written notification of any change in his or her address within 30 days of the address change. Upon receiving such notice, the department shall update its records with the new information. At the request of the individual whose address has changed, the department shall issue the individual a new certification card containing the new address.

(2) NAME CHANGE. No later than 30 days after legally changing his or her name, an individual who holds a concealed carry certification card under this chapter shall provide the department with written notification of the name change and shall apply for a new certification card under the new name. The new application must satisfy the requirements of s. Jus 18.04 and shall be processed by the department as a new application under that section. In the course of

processing the new application, if the department determines that the individual is prohibited under federal law from possessing a firearm, the department shall revoke the individual's previous certification card under s. Jus 18.06(1). If an individual receives a new certification card from the department under this section, the individual shall immediately deliver his or her previous certification card to the department either personally or by certified mail.

(3) FEES.

(a) For any license document issued under this section, the department shall charge the replacement fee provided in s. Jus 18.10.

(b) For any background check conducted under this section, the department shall charge the background check fee provided in s. Jus 18.10.

SECTION 22. Jus 18.08 is created to read:

Jus 18.08 Administrative review after denial or revocation of a concealed carry certification card.

(1)(a) After receiving written notice of denial of an application for a concealed carry certification card under s. Jus 18.04 or written notice of a revocation of a certification card under s. Jus 18.06, an individual may submit to the department a written petition for administrative review of the denial or revocation. Such a petition for administrative review must be received by the department within 30 days after the date on which the written notice of denial or revocation was mailed to the individual by the department.

(b) 1. A petition for administrative review under par. (a) shall specifically identify any alleged errors in the decision to be reviewed and shall be accompanied by a copy of the decision to be reviewed and by properly authenticated copies of all supporting documentation that the petitioner wishes the department to consider when conducting the review.

2. If a petition for review challenges a finding by the department that the petitioner is prohibited by federal law from possessing a firearm, the supporting documentation submitted by the petitioner shall include proof of the petitioner's identity. Satisfactory proof of identity shall include a set of rolled-ink fingerprints of the petitioner prepared by a law enforcement agency on a state or FBI fingerprint card.

(c) If the department receives a timely petition for administrative review, a review proceeding shall be conducted by the attorney general or the attorney general's designee. The review shall be based on consideration of all records in the department's possession related to the decision under review, including: the written notice of denial or revocation under review; the petition for administrative review; any supporting documentation submitted by the petitioner; and any other records in the department's possession related to the decision under review.

(d) 1. Upon completing the review under par. (c), the attorney general or the attorney general's designee shall issue a written decision on behalf of the department either affirming or reversing the denial or revocation under review. The written decision shall include the reasons and factual basis for the department's decision and shall advise the petitioner of the right to seek judicial review under ch. 227, Stats. The written decision shall be sent to the applicant or licensee by a method of shipment that provides confirmation of delivery, including the date of delivery.

2. If the written decision issued under subd. 1. affirms the denial or revocation of a certification card, the written decision shall include notification to the petitioner that the previously imposed denial or revocation, including any non-approval number, remains in effect.

3. If the written decision issued under subd. 1. reverses the denial of an application for a certification card, the department shall withdraw any previously issued non-approval

number and shall issue a certification card to the petitioner, assign a certification card number, and promptly send the certification card to the petitioner by 1st class mail. If the department has previously received a set of fingerprints from the petitioner, the department shall return those fingerprints to the petitioner.

4. If the written decision issued under subd. 1. reverses the revocation of a certification card, the department shall reinstate the revoked certification and the written decision shall include notification to the petitioner of such reinstatement. If the petitioner has previously delivered the revoked certification card to the department pursuant to s. Jus 18.06(2)(a), the department shall promptly return the reinstated certification card to the petitioner by 1st class mail. If the department has previously received a set of fingerprints from the petitioner, the department shall return those fingerprints to the petitioner.

(e) If the written decision under par. (d)1. affirms the denial or revocation of a certification card and the petitioner does not file a timely petition for judicial review under s. 227.53, Stats., the department shall return to the petitioner any set of fingerprints previously submitted to the department by the petitioner.

SECTION 23. Jus 18.09 is created to read:

Jus 18.09 Records.

(1) The department shall create and keep the following records related to the issuance and administration of concealed carry certification cards pursuant to s. 175.49(3) and (4), Stats., and the review of certification decisions by the department:

(a) All of the information submitted to the department by applicants pursuant to s. Jus 18.04 and notes related to that information.

(b) A record of each rejected application and the reasons for rejection and a count of the number of rejected applications.

(c) The confirmation number for each applicant.

(d) The approval or non-approval number for each applicant on whom the department has conducted a background check.

(e) The certification card number for each certification card issued by the department.

(f) A log of each record search of the department's computerized records related to concealed carry certifications, including the date or dates of the search and any confirmation number, certification card number, or approval or non-approval number associated with the search.

(g) Records of the cost to the department of issuing certification cards under s. 175.49, Stats., and this chapter.

(h) All records that the department is required to keep by applicable state or federal laws.

(2) The department may create and keep any other records reasonably necessary for the department to perform its responsibilities under s. 175.49, Stats., and this chapter.

SECTION 24. Jus 18.10 is created to read:

Jus 18.10 Fees.

(1) APPLICATION FEE.

(a) The certification card application fee charged by the department pursuant to s. Jus 18.04(1)(a)1.c. shall be \$12.

(b) The department shall annually review the cost of issuing certification cards under s. 175.49, Stats., and this chapter. If the cost of issuing a certification card is less than the

current application fee, the department shall reduce the application fee to equal the cost of issuing a certification card.

(2) BACKGROUND CHECK FEE. The fee for any background check conducted by the department pursuant to this chapter shall be \$13.

(3) RENEWAL OR REPLACEMENT FEE. The fee charged by the department for renewing a certification card or for replacing a lost or destroyed certification card shall be \$12.

SECTION 25. EFFECTIVE DATE. These rules shall take effect on November 1, 2011.

Dated this 19th day of October, 2011.

WISCONSIN DEPARTMENT OF JUSTICE

By: _____
J.B. Van Hollen, Attorney General

These emergency rules were approved in writing by the governor on October 14, 2011, pursuant to Wis. Stat. § 227.24(1)(e)1g.