



STATE OF WISCONSIN
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**Prepared Remarks of Wisconsin Attorney General J.B. Van Hollen
In Support of Legislation Enhancing Retired Law Enforcement
Officers' Ability to Carry Firearms**

**Assembly Criminal Justice Committee
Thursday, December 10, 2009**

Chairman Turner, members of the Committee on Criminal Justice, thank you for the opportunity to testify today on Assembly Bill 473 and Assembly Bill 474.

This bill has a number of sponsors in the Assembly and the Senate, which is gratifying to see. I particularly want to thank Representatives Hraychuck and Friske for their work on the legislation.

I have had the opportunity to co-host law enforcement roundtables for each of Wisconsin's 72 counties. Many of you have actively participated in those roundtables. One of the issues that was raised repeatedly was the wisdom of allowing retired law enforcement officers to carry weapons and the fact that many local police agencies have not implemented what is commonly referred to as HR 218, or the Federal Law Enforcement Officers Safety Act of 2004.

This federal law establishes guidelines by which an experienced retired law enforcement officer, who maintains proper training, can obtain certification allowing them to carry concealed firearms of the type the officer used while active. HR 218 permits local agencies to apply their local standards to issue the certifications to retired officers; however, the federal law does not command that all local agencies comply. So while the federal law creates clear standards for issuing a certificate and permits their issuance, the federal law must be executed at the state or local level.

What AB 474 would do, in large degree, is codify the federal law in state law and provide clear direction as to how these certificates can be issued.

Early in my tenure as Attorney General, there was a debate about whether state and local law enforcement agencies may issue certifications. I believe that the meaning of HR 218 is clear—law enforcement *can* issue certifications without state implementing legislation. Many local law enforcement agencies like the Dane County Sheriff's Office, City of Madison Police Department, City of Racine Police Department and City of Middleton Police Department have issued certifications to their retirees. In June 2008, my agency, the Department of Justice, became the

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first state law enforcement agency to issue certifications, and we've lawfully issued 18 certifications to retired special agents to date.

I want to repeat that – agencies *can* and *have* issued certification cards – and they have done so legally.

So why is this legislation before you today?

I believe legislation is needed to give a greater effect to HR 218 in Wisconsin in three ways. First, by codifying the language set forth in HR 218 in our statutes, any ambiguity as to the authority to issue certifications is removed. If enacted, those who currently believe – and I believe they do so wrongly – that HR 218 does not authorize them to issue certifications will need to look no further than the state statutes for direction. Those who need a roadmap for how to issue certificates will have one, in state law.

Second, the bill provides immunity to issuing agencies to take away any liability concerns that may currently exist. Some agencies, likely under the advice of risk averse corporation counsels or risk management officials, have declined to implement HR 218 because they fear liability could flow from the issuance of a certificate pursuant to federal law. By limiting liability, this excuse is removed. Those who properly apply the law will not have to worry about lawsuits.

Finally, the bill provides a mechanism to ensure that federal officers who served in the state have the ability to have credentials issued.

In sum, if this legislation is passed, I expect much greater implementation of HR 218 leading to a safer Wisconsin.

Members, I wholeheartedly support these two bills and I urge you all to do so as well.