
Wisconsin Legislative Council

ACT MEMO



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2019 Wisconsin Act 52
[2019 Senate Bill 290]

**Sale or Use of Devices
Containing CS Gel**

BACKGROUND

Wisconsin law generally prohibits the sale, possession, use, or transportation of any tear gas bomb, hand grenade, or other type of container into which tear gas or any similar substance is used to cause bodily discomfort, panic, or damage to property. An exception to this prohibition exists for devices or containers that contain a combination of oleoresin of capsicum (pepper spray) and inert ingredients but does not contain any other gas or substances that will cause bodily discomfort.

However, current law prohibits the use, sale, and possession of pepper spray in certain circumstances, such as sales to or possession by minors, subject to certain exceptions. Moreover, under current law, it is unlawful for a person to intentionally use a container or device containing pepper spray to cause bodily harm or bodily discomfort to another person, unless the person is acting in self-defense or defense of another, acting in his or her official capacity as a peace officer, or acting in the line of duty as a member of the armed forces or national guard.

2019 WISCONSIN ACT 52

2019 Wisconsin Act 52 applies the same treatment to CS gel as is applied to pepper spray under current law. The act defines CS gel as “nonatomizing, gel-form chlorobenzalmalononitrile.”

Specifically, under the act, the prohibition against the sale or use of tear gas does not apply to any device or container that contains a combination of CS gel and inert ingredients, but does not contain any other gas or substance that will cause bodily discomfort. Also, the same criminal penalties and exceptions to the imposition of criminal penalties that apply to the use of pepper spray also apply to the use of CS gel under the act.

Effective date: November 24, 2019

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