



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2011 Wisconsin Act 35**  
[2011 Senate Bill 93]

**Carrying Weapons, Firearm  
Possession and Transport,  
Disorderly Conduct, and Electric  
Weapons**

2011 Wisconsin Act 35 relates to going armed with weapons, possessing or transporting a firearm, disorderly conduct limitations, and electric weapons.

### **Crime Against Carrying a Concealed Weapon and Carrying Weapons in Certain Places**

#### ***Current Law***

Under current law, any person, except a peace officer, who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor. Exceptions to this rule have been recognized by the Wisconsin Supreme Court with respect to a person's place of business and home under certain circumstances.

Current law also contains criminal offenses that generally prohibit carrying a firearm in a public building and carrying a handgun where alcohol beverages are sold and consumed.

#### ***The Act***

The Act creates a process to obtain a license to carry a concealed weapon, as described below. A person who is licensed, or who is an out-of-state licensee, is exempted from the crimes that prohibit carrying a concealed weapon, carrying a firearm in a public building, and carrying a handgun where alcohol beverages are sold and consumed if the person is not consuming alcohol on the premises.

The Act also provides that the offenses of carrying a concealed weapon, carrying a firearm in a public building, and carrying a handgun where alcohol beverages are sold and consumed do not apply to any of the following:

- An individual who carries a concealed and dangerous weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- A qualified out-of-state law enforcement officer<sup>1</sup>, but only if the weapon is a firearm but is not a machine gun or a destructive device; the officer is not carrying a firearm silencer; and the officer is not under the influence of an intoxicant.
- A former officer (i.e., a person who served as a law enforcement officer with a law enforcement agency before separating from service as a law enforcement officer) who meets the above conditions and to whom all of the following apply:
  - The former officer has been issued a photographic identification document or identification or certification card, as described below.
  - The weapon is a firearm that is of the type described in the identification document.
  - Within the preceding 12 months, the former officer met the standards of the state in which he or she resides for training and qualification for active duty law enforcement officers to carry firearms.

### **Possession of Electric Weapons**

#### ***Current Law***

Under current law, only peace officers, armed forces or National Guard personnel, certain corrections personnel, or manufacturers or sellers whose electric weapons are used solely by these people, and common carriers transporting electric weapons, may sell, transport, manufacture, possess, or go armed with any electric weapon. A violation of these prohibitions is punishable as a Class H felony.

#### ***The Act***

Under the Act, in addition to the exceptions under current law, the prohibition against possessing or going armed with an electric weapon does not apply to any of the following:

- A licensee or an out-of-state licensee.
- An individual who goes armed with an electric weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies.

The Act also provides that the prohibition against transporting an electric weapon does not apply to any of the following:

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<sup>1</sup> For purposes of the offense of carrying a concealed weapon, the Act defines “qualified out-of-state law enforcement officer” as a law enforcement officer to whom all of the following apply:

- The person is employed by a state or local government agency in another state.
- The agency has authorized the person to carry a firearm.
- The person is not the subject of any disciplinary action by the agency that could result in the suspension or loss of the person’s law enforcement authority.
- The person meets all standards established by the agency to qualify the person on a regular basis to use a firearm.
- The person is not prohibited under federal law from possessing a firearm.

- A licensee or an out-of-state licensee.
- An individual who is not a licensee or out-of-state licensee who transports an electric weapon that is enclosed within a carrying case.

### **Licenses to Carry a Concealed Weapon**

The Act creates a license to carry a concealed weapon. Under the Act, “weapon” is defined as a handgun, an electric weapon, a knife other than a switchblade, or a billy club. The licenses are issued by the Department of Justice (DOJ). The Act specifies the requirements for licensure and provides that DOJ may not impose conditions, limitations, or requirements other than those expressly provided in the Act. The Act provides that, unless expressly provided, the licensure statute does not limit an individual’s right to carry a firearm that is not concealed.

Under the Act, a licensee or an out-of-state licensee may carry a concealed weapon anywhere in Wisconsin except as provided in the Act.

### ***Out-of-State Licensees***

The Act requires DOJ to promulgate, by rule, a list of states that issue a permit, license, approval, or other authorization to carry a concealed weapon for which it is required that the holder submit to a background search that is comparable to the background check required to obtain a license in Wisconsin, or which designates that the holder chose to submit to such a background search. A person is an “out-of-state licensee” under the Act if the person has been issued an out-of-state license from one of the states listed by DOJ, is 21 years of age or over, and is not a Wisconsin resident.

The Act contains a statement that, for purposes of federal law under which an individual is exempt from the prohibition against possessing a firearm in a school zone because he or she is licensed to possess a firearm under the conditions set forth in federal law, an out-of-state licensee is licensed by the State of Wisconsin.

### ***Possession and Display of License Document and Identification***

Under the Act, a licensee, an out-of-state licensee, a qualified out-of-state law enforcement officer, or a former officer must have his or her license document or other identification, as specified in the Act, with him or her while carrying a concealed weapon. This requirement does not apply to a licensee or out-of-state licensee who is carrying a concealed weapon in his or her own dwelling or place of business or on land that he or she owns, leases, or legally occupies.

A licensee or out-of-state licensee who is carrying a concealed weapon must display the license and identification to a law enforcement officer upon the request of the law enforcement officer while the law enforcement officer is acting in an official capacity and with lawful authority.

A person who violates any of these requirements may be required to forfeit not more than \$25 except that the person is exempt from this penalty if he or she presents his or her license document and photographic identification to the law enforcement agency within 48 hours.

### ***License Document***

The Act requires DOJ to design a single license document for carrying a concealed weapon. DOJ must complete the design of the license document no later than the first day of the second month beginning after the effective date of the legislation. The Act specifies what the document must contain and some of the characteristics of the document and permits DOJ to contract with the Department of Transportation (DOT) to produce and issue license documents.

### ***Restrictions on Issuing a License***

Under the Act, DOJ must issue a license to carry a concealed weapon to an individual who submits an application unless any of the following applies:

- The individual is less than 21 years of age.
- The individual is prohibited under federal or state law from possessing a firearm.
- The individual has been charged with a misdemeanor or a felony and the court has prohibited the individual from possessing a dangerous weapon as a condition of bail or a condition of release.
- The individual is not a Wisconsin resident.
- The individual has not provided proof of training.

### ***Training Requirements***

In an application for a license, an individual must include proof of having received firearm training. The proof of training requirement may be met by any of the following:

- A copy of a document, or an affidavit from an instructor or organization that conducted the course or program, that indicates that the individual completed any of the following:
  - The hunter education program established by the Department of Natural Resources (DNR) or a substantially similar program that is established by another state, country, or province and that is recognized by DNR.
  - A firearms safety or training course that is conducted by a national or state organization that certifies firearms instructors.
  - A firearms safety or training course that is available to the public and is offered by a law enforcement agency or, if the course is taught by an instructor who is certified by a national or state organization that certifies firearms instructors or by DOJ, by a technical college, a college or university, a private or public institution or organization, or a firearms training school.
  - A firearms safety or training course that is offered to law enforcement officers or to owners and employees of licensed private detective and security agencies.

- A firearms safety or training course that is conducted by a firearms instructor who is certified by a national or state organization that certifies firearms instructors or who is certified by DOJ.
- Documentation that the individual completed military, law enforcement, or security training that gave the individual experience with firearms that is substantially equivalent to a course or program described above.
- A current or expired license, or a photocopy of a current or expired license, that the individual holds or has held that indicates that the individual is licensed or has been licensed to carry a firearm in this state or in another state or in a county or municipality of this state or of another state unless the license has been revoked for cause.
- Documentation of completion of small arms training while serving in the U.S. armed forces as demonstrated by an honorable discharge or general discharge under honorable conditions or a certificate of completion of basic training with a service record of successful completion of small arms training and certification.

The Act requires DOJ to certify instructors and to maintain a list of instructors that it certifies. To be certified, a person must be all of the following:

- Qualified to carry a concealed weapon.
- Able to demonstrate the ability and knowledge required for providing firearms safety and training.

The Act specifies that DOJ may not require firing live ammunition to meet these training requirements.

Under the Act, an instructor of a firearms training course, as described above, who intentionally submits false documentation indicating that an individual has met the training requirements may be prosecuted for false swearing.

A person providing a firearms training course in good faith is immune from liability for any act or omission related to the course if the course is one of the courses listed in the Act.

### ***Application for a License***

DOJ must design an application form for licenses, and the form must contain certain provisions such as a statement describing current law regarding self-defense and statements relating to the penalties for providing false information in the application. An individual may apply for a license under the Act by submitting a completed application form, a statement that the information submitted in or with the application is true and complete to the best of his or her knowledge, a license fee in an amount determined by DOJ but which may not exceed \$37, and a \$13 fee for a background check.

When DOJ receives an application, it must conduct a background check using the procedures set forth in the Act to determine if the person is qualified under state and federal law to possess a firearm. If DOJ denies an application, DOJ must inform the applicant in writing, stating the reason and factual basis for the denial.

The Act authorizes DOJ to enforce the offense of false swearing with respect to false statements submitted or made in an application for a license or an application to renew a license.

DOJ must generally issue a license or deny a license application within 21 days of receiving the application, except that during the time between the day after publication of the Act and the first day of the fifth month after that day, DOJ is provided additional time to process applications.

### ***Emergency License***

Under the Act, an individual who requires an immediate license may petition the court in the county in which he or she resides for such a license. Unless the court knows that the individual is ineligible for a license, a court may issue a temporary license, generally valid for 30 days, to an individual if the court determines that immediate licensure is warranted to protect the individual from death or great bodily harm.

### ***Updated Information Regarding Eligibility***

Under the Act, the court automated information systems (i.e., the Consolidated Court Automated Programs or CCAP), or the clerk or register in probate if the information is not contained or cannot be transmitted by the court automated information systems, must promptly notify DOJ of the name of any individual for whom there is a court finding that disqualifies the individual from being permitted to possess a firearm. For example, DOJ must be notified if an individual is found to have committed a felony or is involuntarily committed for mental health treatment. DOJ must then determine whether the individual is a licensee. Clerks or registers in probate and their staff, and the court automated information systems and their employees are immune from liability arising from any act or omission under the Act, if done so in good faith.

The Act also requires a licensee to notify DOJ of an address change within 30 days of the change.

### ***Maintenance, Use, and Publication of Records by DOJ and Other Agencies***

The Act requires DOJ to maintain a computerized record listing the names of and specified information concerning all individuals who have been issued a license and former law enforcement officers who have been issued certification cards, as described below. A law enforcement officer may not request or be provided information from the computerized record maintained by DOJ concerning a specific individual except for specified purposes including to confirm that a license or certification card produced by an individual at the request of a law enforcement officer is valid or, if an individual does not have his or her license document or certification card with him or her, to confirm that the individual holds a valid license or certification card.

Unless specifically authorized in the Act, neither DOJ nor any DOJ employee may store, maintain, format, sort, or access the information in any way other than by the names, dates of birth, or sex of licensees or individuals, or by the identification numbers assigned to licensees. Similarly, neither DOT nor any employee of DOT may store, maintain, or access information provided by DOJ for the production or issuance of license documents other than to the extent necessary to produce or issue the license documents per an arrangement with DOJ. In addition, neither a law enforcement agency nor any of its employees may store or maintain information regarding an individual that was obtained from DOJ based on the individual's status as a licensee or holder of a certificate card. Neither a law enforcement agency nor any of its employees may sort or access information regarding vehicle stops, investigations,

civil or criminal offenses, or other activities involving the agency based on the status as licensees or holders of certification cards of any individuals involved.

The Act provides that, notwithstanding the Wisconsin Open Records Law, DOJ, DOT, or any employee of DOJ or DOT, and law enforcement agencies and their employees, may not make information obtained under the Act available to the public except in the context of a prosecution for an offense in which the person's status as a licensee or holder of a certification card is relevant or through DOJ's annual report to the Legislature and the Governor, described below.

A person who violates these provisions may be fined not more than \$500 or imprisoned for not more than 30 days, or both. DOJ, DOT, and the employees of each department, and law enforcement agencies and their employees, are immune from liability arising from any act or omission under the Act, if done so in good faith.

### ***License Revocation and Suspension***

The Act requires DOJ to revoke a license if DOJ determines that a licensee no longer meets the requirements for licensure (e.g., is prohibited from possessing a firearm due to a felony conviction). DOJ must suspend a license if a court has prohibited the licensee from possessing a dangerous weapon as a condition of bail. If the individual whose license was suspended is no longer subject to such a condition and the license is otherwise valid, DOJ must restore the license within five business days of notification that the license is no longer subject to the prohibition.

### ***Review and Appeal of Licensing Decisions***

Under the Act, DOJ must promulgate rules providing for administrative review of any action by DOJ denying an application for, or suspending or revoking, a license. The Act also permits an individual aggrieved by one of these DOJ actions to appeal directly to the circuit court of the county in which the individual resides for judicial review of that decision, without regard to whether the individual has sought review under DOJ's administrative review process.

The Act provides direction as to how a person petitions the circuit court for judicial review and how a court is required to act on a petition, and allows the court to order DOJ to pay the aggrieved individual all court costs and reasonable attorney fees if the court reverses DOJ's action.

### ***License Expiration and Renewal***

Under the Act, a license remains in effect for five years unless it is suspended or revoked before then. At least 90 days before the expiration of a license, DOJ must mail to the licensee a notice of expiration form and a form for renewing the license. The renewal fee, not including the fee for a background check, will be determined by DOJ by rule and must be equal to the cost of renewing the license but may not exceed \$12. DOJ must conduct a background check of a licensee before renewing the license and must issue a renewal license within 21 days after receiving the application, statement, and fees.

Under the Act, the license of a member of the U.S. armed forces, a reserve unit of the armed forces, or the National Guard who is deployed overseas while on active duty may not expire until at least 90 days after the end of the licensee's overseas deployment unless the license is suspended or revoked.

### ***Employer Restrictions***

Under the Act, an employer may prohibit an employee from carrying a concealed weapon or a particular type of concealed weapon in the course of the employee's employment or during any part of the course of the employee's employment. However, an employer may not prohibit an employee, as a condition of employment, from carrying a concealed weapon, a particular type of concealed weapon, or ammunition or from storing a weapon, a particular type of weapon, or ammunition in the employee's own motor vehicle, regardless of whether the motor vehicle is used in the course of employment or whether the motor vehicle is driven or parked on property used by the employer. An employer who does not prohibit one or more employees from carrying a concealed weapon is immune from any liability arising from that decision.

### ***Prohibited Activity***

Under the Act, neither a licensee nor an out-of-state licensee may knowingly carry a concealed weapon, a weapon that is not concealed, or a firearm that is not a weapon (e.g., a rifle or shotgun) in any of the following places:

- Any portion of a building that is a police station, sheriff's office, state patrol station, or the office of a Division of Criminal Investigation special agent of DOJ.
- Any portion of a building that is a prison, jail, house of correction, or secured correctional facility.
- The Sand Ridge Secure Treatment Center, the Wisconsin Resource Center, or any secured unit or secured portion of a mental health institution, including the Maximum Security Facility at the Mendota Mental Health Institute.
- Any portion of a building that is a county, state, or federal courthouse.
- Any portion of a building that is a municipal courtroom if court is in session.
- A place beyond a security checkpoint in an airport.

The above prohibitions do not apply to any of the following:

- A weapon in a vehicle driven or parked in a parking facility located in a building that is used as, or any portion of which is used as, a location described above.
- A weapon in a courthouse if a judge who is a licensee is carrying the weapon, or if the weapon is carried by another licensee or out-of-state licensee whom a judge has permitted in writing to carry a weapon.
- A weapon in a courthouse or courtroom if a district attorney, or an assistant district attorney, who is a licensee is carrying the weapon.

A person who violates the above provisions may be fined not more than \$500 or imprisoned for not more than 30 days, or both.



### ***Reciprocity Agreements with Other States***

The Act permits DOJ to enter into reciprocity agreements with other states as to matters relating to licenses or other authorization to carry concealed weapons.

### ***Statistical Report***

The Act requires DOJ to submit a statistical report to the Legislature and the Governor annually by March 1. The report must indicate the number of licenses applied for, issued, denied, suspended, and revoked during the previous calendar year. For the licenses denied, the report must indicate the reasons for the denials and the part of the application process in which the reasons for denial were discovered. For licenses suspended or revoked, the report must indicate the reasons for the suspensions and revocations. DOJ may not include in the report any information that may be used to identify an applicant or a licensee, including a name, address, birth date, or Social Security number.

### ***Penalty if Law Enforcement Officer Uses Excessive Force Against Licensee***

Under the Act, any law enforcement officer who uses excessive force based solely on an individual's status as a licensee may be fined not more than \$500 or sentenced to a term of imprisonment of not more than 30 days, or both. The application of this penalty does not preclude the application of any other civil or criminal remedy.

### ***Relinquishment of Law Enforcement Officer Identification Cards***

As discussed above, a former law enforcement officer who has a photographic identification card is exempt from certain offenses relating to carrying a firearm. The Act provides that if a Wisconsin law enforcement agency<sup>2</sup> issues photographic identification cards to its officers, it may not require an officer to relinquish his or her card when the officer separates from service with the Wisconsin law enforcement agency unless specified circumstances apply, such as the officer may not lawfully possess a firearm under federal law or the officer did not separate from service in good standing as a law enforcement officer with the agency.

### ***Former Law Enforcement Officers Seeking to Carry Concealed Weapons***

As discussed above, a former law enforcement officer who has a photographic identification card or a certification card is exempt under the Act from certain offenses relating to carrying a firearm. Under the Act, upon the request of a former law enforcement officer<sup>3</sup> and at the expense of the former law

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<sup>2</sup> "Wisconsin law enforcement agency" is defined as 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.

<sup>3</sup> The Act defines "***former law enforcement officer***" as a person who separated from service as a law enforcement officer at a state or local law enforcement agency in Wisconsin. "***Law enforcement officer***" is defined as a person who is employed by a law enforcement agency for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest. "***Law enforcement agency***" is defined as an agency that consists of one or more persons employed by the federal government; a state or a political subdivision of a state; the U.S. armed forces; or the National Guard, that has as its purpose the prevention and detection of crime and the enforcement of laws or ordinances, and that is authorized to make arrests for crimes.

enforcement officer, a law enforcement agency that employed the former law enforcement officer must issue the former law enforcement officer a certification card.

The law enforcement agency may *not* issue the former law enforcement officer a certification card *unless* the law enforcement agency first verifies specific information, including that the former law enforcement officer separated from service as a law enforcement officer with the law enforcement agency in good standing.

The Act further provides that, upon the request of a former federal law enforcement officer who resides in Wisconsin and at the expense of the former federal law enforcement officer, DOJ may, unless the person is disqualified, as described above, issue the former federal law enforcement officer a certification card, using the same requirements and criteria described above. If DOJ issues a former federal law enforcement officer a certification card, DOJ must add the former officer's information to the list of licensees DOJ maintains.

## **Trespass Law**

### ***Current Law***

Current law generally prohibits entering or remaining on another person's land after having been notified by the owner or occupant not to enter or remain on the premises. This offense is punishable by a Class B forfeiture.

### ***The Act***

The Act creates new provisions in the trespass statute to permit certain owners and occupants of property to prohibit persons from carrying a concealed weapon in or on the property<sup>4</sup>. Under the Act, a person may be subject to a Class B forfeiture if he or she, while carrying a firearm, does one of the following:

- Enters or remains at a residence that the person does not own or occupy after the owner of the residence, if he or she has not leased it to another person, or the occupant of the residence has notified the person not to enter or remain at the residence while carrying a firearm or with that type of firearm. In the Act, "residence," with respect to a single-family residence, includes the residence building and the parcel of land upon which the residence building is located. If a residence is not a single-family residence, "residence" does not include any common area of the building in which the residence is located or any common areas on the rest of the parcel of land upon which the residence building is located.
- Enters or remains in the common area in a building, or on the grounds of a building, that is a residence that is not a single-family residence if the actor does not own the residence or does not occupy any part of the residence and if the owner of the residence has notified the actor not to remain in the common area or on the grounds while carrying a firearm or with that

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<sup>4</sup> The Act provides that the current prohibition on entering or remaining on any land of another after having been notified by the owner or occupant not to enter or remain on the premises does not apply to an individual if the owner's or occupant's intent is to prevent the individual from carrying a firearm on the land.

type of firearm. This provision does not apply to a part of the grounds that is used for parking if the firearm is in a vehicle driven or parked in that part.

- Enters or remains in or on any part of a nonresidential building, grounds of a nonresidential building, or land that the person does not own or occupy after the owner of the building, grounds, or land, if that part of the building, grounds, or land has not been leased to another person, or the occupant of that part of the building, grounds, or land has notified the person not to enter or remain in that part of the building, grounds, or land while carrying a firearm. This provision does not apply to a part of a building, grounds, or land occupied by the state or by a local unit of government; to a privately or publicly owned building on the grounds of a university or college; or to the grounds of or land owned or occupied by a university or college. In addition, if the firearm is in a vehicle driven or parked in a parking facility, this provision does not apply to any part of a building, grounds, or land used as a parking facility. The Act specifies that “nonresidential building” includes a nursing home, a community-based residential facility, a residential care apartment complex, an adult family home, and a hospice.
- Enters or remains at a special event if the organizers of the special event have notified the actor not to remain at the special event while carrying a firearm or with that type of firearm. The provision does not apply if the firearm is in a vehicle driven or parked in the parking facility, to any part of the special event grounds or building that is used as a parking facility. The Act defines “special event” as an event that is open to the public, is for a duration of not more than three weeks, and either has designated entrances to and from the event that are locked when the event is closed or requires an admission.
- Enters or remains in any part of a building that is owned, occupied, or controlled by the state or any local governmental unit if the state or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or a type of firearm. This provision does not apply to the governmental buildings in which a licensee is otherwise prohibited from carrying a concealed weapon under the Act. In addition, this provision does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in a parking facility, to any part of a building used as a parking facility.
- Enters or remains in any privately or publicly owned buildings on the grounds of a university or college, if the university or college has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. The provision does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

In order to give notice under the above provisions, other than the provision relating to single family residences (and individual units in a multi-family residence), an owner or occupant must post a sign notifying persons of the restriction. If an owner or occupant of a building or part of a building is permitted to post a sign to notify that carrying of firearms is prohibited in the building or part of the building, the owner or occupant must post a sign that is located in a prominent place near all of the entrances of the part of the building to which the restriction applies and it must be posted so that any individual entering the building must be reasonably expected to see the sign. If grounds of a building or land may be posted, as described above, the owner or occupant must post a sign that is located in a prominent place near all probable access points to the grounds or land to which the restriction applies

and so that any individual entering the grounds or land can be reasonably expected to see the sign. Finally, organizers of a special event may post the special event by posting a sign that is located in a prominent place near all of the entrances to the special event and so that any individual attending the special event can be reasonably expected to see the sign. For all of these provisions, the sign must be at least five inches by seven inches.

Under the Act, a person that does not prohibit an individual who is carrying a firearm from entering or remaining on property that the person owns or occupies is immune from any liability arising from its decision.

### **Unlawful Use of License for Carrying a Concealed Weapon**

The Act creates an offense under which a person who does any of the following is guilty of a Class A misdemeanor:

- Intentionally represents as valid any revoked, suspended, fictitious, or fraudulently altered license.
- If the actor holds a license, intentionally sells or lends the license to any other individual or knowingly permits another individual to use the license.
- Intentionally represents as one's own any license not issued to him or her.
- If the actor holds a license, intentionally permits any unlawful use of that license.
- Intentionally reproduces by any means a copy of a license for a purpose that is prohibited.
- Intentionally defaces or intentionally alters a license.

### **Exception to Disorderly Conduct Offense**

#### ***Current Law***

Under current law, whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a Class B misdemeanor. Municipalities may also enact ordinances to prohibit disorderly conduct.

#### ***The Act***

The Act provides that a person may not be in violation of, or charged with a violation of, the disorderly conduct statute or an ordinance relating to disorderly conduct for loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried, unless other facts and circumstances apply that indicate a criminal or malicious intent on the part of the person.

## **Gun-Free School Zones**

### ***Current Law***

Under current law, any person who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone is guilty of a Class I felony. "School zone" is defined as: (a) in or on the grounds of a school; and (b) within 1,000 feet from the grounds of a school.

This offense does not apply to possession of a firearm under any of the following circumstances:

- On private property not part of school grounds.
- If the individual possessing the firearm is licensed to do so by a political subdivision of the state in which the school zone is located or by the U.S. Bureau of Alcohol, Tobacco, and Firearms and the law of the political subdivision requires that, before an individual may obtain such a license, the law enforcement authorities must verify that the individual is qualified under law to receive the license.
- The firearm is not loaded and is encased or in a locked firearms rack that is on a motor vehicle.
- By an individual for use in a program approved by a school in the school zone.
- By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual.
- By a law enforcement officer or state-certified commission warden acting in his or her official capacity.
- The firearm is unloaded and is possessed by an individual while traversing school grounds for the purpose of gaining access to public or private lands open to hunting, if the entry on the school grounds is authorized by school authorities.
- By a person legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest.

### ***The Act***

Under the Act, it is a Class I felony to knowingly possess a firearm at a place that the individual knows, or has reasonable cause to believe, is in or on the grounds of a school. Under the Act, it is a Class B forfeiture to possess a firearm at a place the individual knows, or has reasonable cause to believe, is within 1,000 feet of the grounds of a school.

The Act repeals all the conditions under which an individual may possess a firearm in a school zone except the following:

- The firearm is not loaded and is encased or in a locked firearms rack that is on a motor vehicle.
- By a state-certified commission warden acting in his or her official capacity.

- By a person legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest.

The Act replaces the repealed conditions under which an individual may possess a firearm in a school zone with the following provisions of federal law which are cross-referenced in the Act:

- On private property that is not part of school grounds.
- For use in a program approved by a school in the school zone.
- In accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual.
- By a law enforcement officer acting in his or her official capacity.
- The firearm is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on the school premises is authorized by school authorities.

The Act also permits a licensee or an out-of-state licensee to possess a firearm within 1,000 feet of the grounds of a school, but a licensee or out-of-state licensee who does not meet one of the other exceptions may not possess a firearm in or on the grounds of a school.

### **Justification for Firearm Discharge**

#### ***Current Law***

Under current law, a city, village, or town exercising village powers may, by ordinance or resolution, restrict the discharge of a firearm. Current law also prohibits discharging a firearm near certain parks, from a vehicle, from or across a highway, or in or from an aircraft.

#### ***The Act***

The Act contains a provision under which such an ordinance or resolution does not apply if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense of privilege in the Criminal Code (e.g., was under circumstances of coercion or necessity or was in self-defense). The Act also creates exceptions for other statutory firearm discharge prohibitions, as described above, if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense under the Criminal Code.

### **Firearms in or on Vehicles**

#### ***Current Law***

Under current law, persons who possess firearms in vehicles or on certain types of land are generally required to have the firearm unloaded and encased.

***The Act***

The Act makes a number of statutory changes with respect to the placement, possession, and transportation of firearms in various types of vehicles, as follows:

- Permits placing, possessing, or transporting a loaded and unencased handgun in a vehicle.
- Permits loading a firearm that is a handgun in a vehicle.
- Permits operating an all-terrain vehicle (ATV) with a loaded and unencased handgun in the operator's possession.
- Permits placing, possessing, or transporting a loaded handgun in or on a motorboat with the motor running.
- Permits placing, possessing, or transporting a loaded and unencased handgun in or on a noncommercial aircraft.
- Modifies the prohibition against possession of a firearm unless it is unloaded or encased in a wildlife refuge so that it does not apply to a licensee or an out-of state licensee if the firearm is a handgun, or to a law enforcement officer, a qualified out-of-state law enforcement officer, or a former officer if they meet certain conditions.
- Modifies the prohibition against having in one's possession or under one's control a firearm on land located in state parks or state fish hatcheries unless the firearm is unloaded and in a carrying case so that it does not apply to a licensee or an out-of state licensee if the firearm is a handgun, or to a law enforcement officer, a qualified out-of-state law enforcement officer, or a former officer if they meet certain conditions.

***Effective Date:***

The Act provides that the legislation takes effect on the first day of the fourth month beginning after publication, except that the following provisions take effect on the day after publication: (a) the changes to the disorderly conduct statutes; (b) the requirement that DOJ promulgate rules regarding what states issue authorizations to carry firearms that will be recognized as out-of-state licenses in Wisconsin; (c) the requirement that DOJ and law enforcement agencies design certification cards for former law enforcement officers; and (d) the requirements that DOJ design the license document and create license application forms.

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