



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Assembly Bill 529

**Assembly Substitute
Amendment 2**

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Current law contains a number of prohibitions relating to carrying dangerous weapons, including firearms. First, current law prohibits a person from carrying a concealed and dangerous weapon, such as a firearm. [s. 941.23, Stats.; “dangerous weapon” is defined in s. 939.22 (10), Stats.] Second, current law prohibits a person from going armed with a firearm in a government building. [s. 941.235, Stats.] Third, current law generally prohibits a person from going armed with a handgun in a tavern or restaurant with a liquor license. [s. 941.237, Stats.] None of these prohibitions apply to a peace officer, which is defined by statute as a person vested by law with a duty to maintain public order or to make arrests for crime.

2001 Assembly Bill 529 exempts retired peace officers from the coverage of the prohibitions described above.

Assembly Substitute Amendment 2 to Assembly Bill 529 limits the scope of the exemption granted to retired peace officers regarding current law prohibitions against carrying concealed dangerous weapons, including firearms. First, the substitute amendment does not contain an exemption from the prohibition against going armed with a firearm in a government building. Second, the substitute amendment limits the authority of a retired peace officer to go armed with a handgun in a tavern or restaurant with a liquor license. Under the substitute amendment, the exemption applies only if the sale of intoxicating liquors or fermented malt beverages, or both, on those premises accounts for 50% or less of the proprietor’s receipts for those premises. Additionally, the substitute amendment imposes certain conditions on retired peace officers who desire to be exempt from the current law prohibition against carrying concealed dangerous weapons, including firearms, and the prohibition against going armed with a handgun in a tavern or restaurant with a liquor license.

Under the substitute amendment, a retired peace officer who wishes to carry a concealed dangerous weapon, including a firearm, or go armed with a handgun in a tavern or restaurant with a liquor license must obtain and carry a driver’s license or identification card issued by the Department of Transportation (DOT) with the designation retired peace officer authorized to carry a concealed firearm

or other dangerous weapon. The DOT is authorized to issue a driver's license or identification card with such a designation if the DOT receives authorization for such designation from the Law Enforcement Standards Board (hereinafter, the "Board"), which is attached to the Department of Justice (DOJ). To be eligible for this authorization, the applicant must meet the following requirements:

1. He or she must be a retired Wisconsin peace officer.
2. At the time of his or her retirement as a peace officer, the applicant must not have been the subject of any disciplinary investigation or proceeding being conducted by his or her preretirement employer.
3. He or she must not have a physical or mental disability that precludes him or her from safely handling a firearm.
4. He or she must not be prohibited under s. 941.29, Stats., from possessing a firearm. This statute restricts possession of firearms by convicted felons and certain other specified persons. Note: Regardless whether the Board is conducting an investigation, a retired peace officer loses his or her eligibility to possess a concealed firearm whenever he or she is prohibited from possessing a firearm under s. 941.29, Stats.
5. He or she must not be prohibited under federal law from possessing a firearm.
6. Within the preceding two-year period, he or she must have successfully completed a course of eight hours or less in the safe use and storage of a handgun that is offered by a technical college or an equivalent course offered by any other institution or program. Currently, various technical colleges throughout the state offer training programs relating to the care and use of firearms which have been approved by the Board. The handgun training course requirement does not apply during the two-year period immediately following a retired peace officer's retirement from active service as a peace officer.
7. He or she must also have authorized all of the following in writing:
 - a. His or her preretirement employer to permit the Board to obtain records from the individual's personnel file.
 - b. The technical college or other institution or program that provided the training in the safe use and storage of a handgun to permit the Board to obtain records relating to the individual's participation in the training.

The substitute amendment authorizes the Board, when investigating an applicant's eligibility to possess a concealed firearm or other dangerous weapon to, among other things, do any of the following:

1. Review personnel records relating to the applicant that are maintained by the applicant's preretirement employer.
2. Review records that are maintained by the technical college or other institution or program that provided training in the safe use and storage of a handgun to verify that the applicant successfully completed the training.

3. Request that the DOJ perform a firearms restrictions records search under s. 175.33, Stats., which is created in SECTION 5 of the substitute amendment. DOJ is precluded from charging a fee for a firearms restrictions records search relating to an application to carry a concealed dangerous weapon by a retired peace officer. DOJ is required to promulgate rules prescribing the manner by which firearms restrictions records searches relating to retired peace officers are to be conducted. To facilitate the firearms restrictions records search several statutes are amended which currently apply to a criminal history or involuntary commitment history record search in order to determine whether or not a person is prohibited from possessing a firearm and thereby precluded from purchasing a handgun. The various statutes amended are set forth in SECTIONS 1, 2, 10, 11, 12, 13, 14 and 15 of the substitute amendment. These SECTIONS amend statutes relating to the persons who have been involuntarily committed and prohibited from possessing a firearm; and persons who have been enjoined from possessing a firearm under statutes relating to domestic abuse, child abuse and harassment restraining orders and injunctions. Also amended in SECTION 16 of the substitute amendment, is a provision of the Juvenile Justice Code which precludes a juvenile who has been adjudicated delinquent for an act that would be a felony from possessing a firearm pursuant to s. 941.29, Stats.

As under the bill, the substitute amendment requires a retired peace officer who is permitted to carry a concealed firearm or other dangerous weapon to display the driver's license or identification card disclosing his or her status as a retired peace officer upon the request of any law enforcement officer.

The substitute amendment also delays the effective date of this legislation, if enacted, until the first day of the fourth month beginning after its publication.

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