



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2003 Senate Bill 214**

**Assembly Amendment 70 to  
Engrossed Senate Bill 214**

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Senate Bill 214 generally requires each county, through its sheriff, to issue a license to carry a concealed weapon to an individual who meets specified qualifications and who completes an application process. To summarize very broadly, an individual will qualify for a license to carry a concealed weapon if the individual is a Wisconsin resident, is not a felon, is mentally competent, is not involved in certain serious past or pending civil or criminal actions, and has received adequate training.

### **ENGROSSED SENATE BILL 214**

On October 21, 2003, the Joint Committee on Finance adopted various amendments to Senate Bill 214 that are incorporated in Senate Substitute Amendment 2 to the bill and in Senate Amendment 1 to the substitute amendment. A description of this legislative package can be found in a Legislative Fiscal Bureau Memorandum prepared for members of the Wisconsin Legislature, dated October 23, 2003.

Engrossed Senate Bill 214 consists of the amendments adopted by the Joint Committee on Finance with the following amendments adopted by the Senate on October 23, 2003 (the amendments adopted by the Joint Committee on Finance are referred to as “the substitute amendment”):

### **Health Care Facilities**

The engrossed bill clarifies that an owner or an occupant of a clinic or office that is used by a physician licensed under ch. 448, Stats., may prohibit a person licensed to carry a concealed weapon from entering or remaining in the clinic or office if the person is appropriately notified. The engrossed bill, therefore, treats health care facilities like private businesses in terms of notification that persons may not carry a concealed weapon on the premises.

### **Kindergarten Facilities and Classrooms**

The engrossed bill provides that a licensee may not knowingly carry a concealed weapon in a kindergarten facility or classroom.

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

The substitute amendment provides that a person who has obtained a license from another state may carry a concealed weapon in Wisconsin if, among other things, such a license is issued by a state only to those persons who meet training requirements and criminal background checks that are substantially similar to or more restrictive than those that are applied to Wisconsin residents.

The engrossed bill provides that a person who has obtained a license to carry a concealed weapon in another state may carry a concealed weapon in Wisconsin if, among other things, the person meets the training requirements of, and passes the criminal background checks in, that state and the person is not a Wisconsin resident.

### **Immunity for Training Providers**

The substitute amendment provides that a person providing a firearm safety or firearm training course or class in good faith is immune from liability arising from any act or omission related to the course or class. The engrossed bill clarifies that the immunity applies if the training is the training described in the bill that a person must undergo in order to become eligible to obtain a license to carry a concealed weapon in Wisconsin.

### **Prior Misdemeanor Crime of Violence Convictions**

The substitute amendment provides that an applicant may receive a license to carry a concealed weapon if, among other things, within the preceding three years, the person was not convicted of a misdemeanor crime of violence or not under government supervision for committing such a crime.

The engrossed bill creates a new eligibility criterion for a person who applies for a license to carry a concealed weapon. A person will *not* be eligible to obtain a license if he or she has been prohibited from obtaining a license by a court in a legal proceeding commenced by a sheriff. Under this procedure, a sheriff receiving an application from a person who has committed a misdemeanor crime of violence, but who has satisfied the three-year look back period, may ask a court to bar the person from receiving the license. If the court determines, by clear and convincing evidence, that the person would pose a substantial risk to others if the person were granted a license, the court must enter an order prohibiting the person from obtaining the license. If the court denies the sheriff's petition, the court must award the license applicant costs and reasonable attorney fees.

### **Postings Notifying Weapons Not Permitted in Private Business**

The substitute amendment provides that a person is subject to a Class B forfeiture if the person, while going armed with a concealed weapon, enters or remains in any part of a nonresidential building that the person does not own or occupy after the owner or occupant of the building has notified the actor not to enter or remain in the building while going armed with a concealed weapon. This provision does

not apply to a part of a building occupied by the state or one of its political subdivisions or to any part of a building used for parking. An owner or occupant of a nonresidential building will be considered to have notified an individual not to enter or remain while going armed with a concealed weapon if the owner or occupant has done both of the following: (a) posted a sign that is located in a prominent place near the primary entrance to the part of the nonresidential building to which the restriction applies; and (b) personally and orally notified the individual of the restriction. The sign stating the restriction must be at least 11 inches square.

The engrossed bill provides that the sign stating the restriction regarding entrance into a nonresidential building with a concealed weapon must be at least 8.5 inches by 11 inches.

### **ASSEMBLY AMENDMENT 70**

Assembly Amendment 70 makes the following changes to the engrossed bill:

#### **Sheriff's Fees**

Under the engrossed bill, the county treasurer must deposit the license fees and license renewal fees collected by the sheriff into the general fund of the county.

Assembly Amendment 70 requires the county treasurer to deposit license fees and license renewal fees that are in excess of the amount of the county's costs for issuing licenses to carry a concealed weapon into a segregated fund established by the treasurer. The county treasurer must make payments from this fund to the sheriff for law enforcement purposes. However, such payments may not be used to supplant or replace other funds otherwise available to the sheriff.

#### **Training Requirements**

The engrossed bill provides that a firearm training or firearm safety course or class required in order to qualify for a license to carry a concealed weapon must include all of the following:

- Instruction on how to handle, load, unload, and store handguns.
- Instruction on the privilege of self-defense and the defense of others.
- Instruction on how to avoid injuring third parties when defending oneself or others.
- Basic self-defense principles.
- Instruction on firing a handgun.
- Practice firing a handgun.

Assembly Amendment 70 also requires that the safety course or class provide the person with information regarding electric weapons.

**Rules Regarding Out-of-State Licenses**

Under the engrossed bill, the Department of Justice (DOJ) must determine which states issue permits or licenses to carry a concealed weapon to persons who meet training requirements and pass criminal background checks in those states and promulgate by rule a list of those states.

Assembly Amendment 70 provides that the list must include states that issue permits or licenses to persons who meet firearms training requirements that are similar to the requirements for firearms training set forth in the bill.

**Places Where a Concealed Weapon May Not Be Carried**

Under the engrossed bill, a licensee generally may not knowingly carry a concealed weapon in a tavern. This prohibition does not apply, however, if the sale of alcohol accounts for not more than 50% of the tavern's proceeds. Assembly Amendment 70 eliminates the exception that allows a licensee to carry a concealed weapon in a tavern at which the sale of alcohol accounts for not more than 50% of the proceeds.

Assembly Amendment 70 also provides that a licensee may not knowingly carry a concealed weapon at a place where an organized youth sporting event is taking place or in a building or part of a building used by a health care facility, including a hospital, or by a clinic or office that is used by a physician. The owner or authorized representative of a health care facility or physician's clinic or office may permit a licensee to carry a concealed weapon in the health care facility, clinic, or office, however.

The Assembly adopted Assembly Amendment 70 to Engrossed Senate Bill 214 on a vote of Ayes, 98; Noes, 1, and concurred in the bill, as amended, on a vote of Ayes, 64; Noes, 35, on November 5, 2003.

AS:rv;jal;jal;wu