



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2735/3
CMH:wlj&kjf:ph

2011 ASSEMBLY BILL 406

December 7, 2011 - Introduced by Representatives ZEPNICK and SINICKI. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT to amend** 175.60 (2g) (a), 175.60 (5) (a) 6., 938.78 (3) and 943.13 (1m) (c)
2 2.; and **to create** 941.236, 943.01 (2) (bm) and 943.20 (3) (d) 2. of the statutes;
3 **relating to:** going armed with a handgun on the premises of a gas station, theft
4 from a gas station, causing damage to a gas station, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with certain exceptions, a person from going armed with a handgun on the grounds of a school; in a police station, sheriff's office, state patrol station, or the office of a division of criminal investigation special agent of the department of corrections; in a prison, jail, house of correction, or secured correctional facility; in certain mental health facilities; in a courthouse; beyond a security checkpoint in an airport; on certain posted grounds and in certain posted buildings; and unless the person has a license to carry a concealed weapon, in a school zone. Under this bill, with certain exceptions, a person is guilty of a felony if he or she goes armed with a handgun on the premises of a gas station. A person who is convicted of the felony may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

Under current law, a person who causes damage to another's property is generally guilty of a misdemeanor. Under this bill, if the property is a gas station, the person is guilty of a felony and is subject to a fine of up to \$10,000, imprisonment of up to three years and six months, or both. Also, under current law, a person who commits theft is guilty of a crime and the penalty varies by the value of the property taken, the victim of the theft, or the circumstances. Under this bill, if the theft is from

ASSEMBLY BILL 406

a gas station, the person is guilty of a felony and is subject to a fine of up to \$10,000, imprisonment of up to six years, or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 175.60 (2g) (a) of the statutes, as created by 2011 Wisconsin Act 35,
2 is amended to read:

3 175.60 **(2g)** (a) A licensee or an out-of-state licensee may carry a concealed
4 weapon anywhere in this state except as provided under subs. (15m) and (16) and ss.
5 941.236, 943.13 (1m) (c), and 948.605 (2) (b) 1r.

6 **SECTION 2.** 175.60 (5) (a) 6. of the statutes, as created by 2011 Wisconsin Act
7 35, is amended to read:

8 175.60 **(5)** (a) 6. A statement of the places under sub. (16) and s. 941.236 where
9 a licensee is prohibited from carrying a weapon, as well as an explanation of the
10 provisions under sub. (15m) and ss. 943.13 (1m) (c) and 948.605 (2) (b) 1r. that could
11 limit the places where the licensee may carry a weapon, with a place for the applicant
12 to sign his or her name to indicate that he or she has read and understands the
13 statement.

14 **SECTION 3.** 938.78 (3) of the statutes is amended to read:

15 938.78 **(3)** RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES. If a juvenile
16 adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need
17 of protection or services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats.,
18 or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats.,
19 or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.236, 941.237, 941.24,

ASSEMBLY BILL 406

1 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03,
2 943.04, 943.10 (2) (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05,
3 948.055, 948.085 (2), 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has
4 escaped from a juvenile correctional facility, residential care center for children and
5 youth, inpatient facility, as defined in s. 51.01 (10), juvenile detention facility, or
6 juvenile portion of a county jail, or from the custody of a peace officer or a guard of
7 such a facility, center, or jail, or has been allowed to leave a juvenile correctional
8 facility, residential care center for children and youth, inpatient facility, juvenile
9 detention facility, or juvenile portion of a county jail for a specified time period and
10 is absent from the facility, center, home, or jail for more than 12 hours after the
11 expiration of the specified period, the department or county department having
12 supervision over the juvenile may release the juvenile's name and any information
13 about the juvenile that is necessary for the protection of the public or to secure the
14 juvenile's return to the facility, center, home, or jail. The department shall
15 promulgate rules establishing guidelines for the release of the juvenile's name or
16 information about the juvenile to the public.

17 **SECTION 4.** 941.236 of the statutes is created to read:

18 **941.236 Carrying handgun on premises of a gas station.** (1) In this
19 section:

20 (a) "Correctional officer" means any person employed by the state or any
21 political subdivision as a guard or officer whose principal duties are the supervision
22 and discipline of inmates.

23 (b) "Encased" has the meaning given in s. 167.31 (1) (b).

24 (bm) "Gas station" means a business that sells, or offers to sell, gasoline or
25 diesel fuel on site at retail.

ASSEMBLY BILL 406

1 (c) "Handgun" has the meaning given in s. 175.35 (1) (b).

2 (d) "Private security person" has the meaning given in s. 440.26 (1m) (h).

3 (f) "Unloaded" means any of the following:

4 1. Having no shell or cartridge in the chamber of a handgun or in the magazine
5 attached to a handgun.

6 2. For a caplock muzzle-loading handgun, having the cap removed.

7 3. For a flintlock muzzle-loading handgun, having the flashpan cleaned of
8 powder.

9 (2) Whoever intentionally goes armed with a handgun on any premises of a gas
10 station is guilty of a Class I felony.

11 (3) Subsection (2) does not apply to any of the following:

12 (a) A peace officer.

13 (am) A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.
14 to 7. applies.

15 (b) A correctional officer while going armed in the line of duty.

16 (c) A member of the U.S. armed forces or national guard while going armed in
17 the line of duty.

18 (d) A private security person meeting all of the following criteria:

19 1. The private security person is covered by a license or permit issued under
20 s. 440.26.

21 2. The private security person is going armed in the line of duty.

22 3. The private security person is acting with the consent of a person specified
23 in par. (e).

24 (e) The owner or manager of the gas station, or any employee or agent
25 authorized to possess a handgun by the owner or manager of the gas station.

ASSEMBLY BILL 406

1 (f) The possession of a handgun that is unloaded and encased in a vehicle in any
2 parking lot area.

3 (4) The state does not have to negate any exception under sub. (3). Any party
4 who claims an exception under sub. (3) is applicable has the burden of proving the
5 exception by a preponderance of the evidence.

6 **SECTION 5.** 943.01 (2) (bm) of the statutes is created to read:

7 943.01 (2) (bm) The property damaged is part of a gas station, as defined in s.
8 941.236 (1) (bm).

9 **SECTION 6.** 943.13 (1m) (c) 2. of the statutes, as created by 2011 Wisconsin Act
10 35, is amended to read:

11 943.13 (1m) (c) 2. While carrying a firearm, enters or remains in any part of
12 a nonresidential building, grounds of a nonresidential building, or land that the actor
13 does not own or occupy after the owner of the building, grounds, or land, if that part
14 of the building, grounds, or land has not been leased to another person, or the
15 occupant of that part of the building, grounds, or land has notified the actor not to
16 enter or remain in that part of the building, grounds, or land while carrying a firearm
17 or with that type of firearm. This subdivision does not apply to the premises of a gas
18 station under s. 941.236, to a part of a building, grounds, or land occupied by the state
19 or by a local governmental unit, to a privately or publicly owned building on the
20 grounds of a university or college, or to the grounds of or land owned or occupied by
21 a university or college, or, if the firearm is in a vehicle driven or parked in the parking
22 facility, to any part of a building, grounds, or land used as a parking facility.

23 **SECTION 7.** 943.20 (3) (d) 2. of the statutes is created to read:

24 943.20 (3) (d) 2. The property is taken from a gas station, as defined in s.
25 941.236 (1) (bm).

