



# Concealed Weapons Licensure and Handgun Purchaser Background Checks

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# Concealed Weapons Licensure and Handgun Purchaser Background Checks

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# Concealed Weapons Licensure and Handgun Purchaser Background Checks

## Introduction

Wisconsin's prohibition on carrying concealed weapons dates back to 1872. Under Chapter 7, Laws of 1872, the Wisconsin Legislature provided that:

"If any person shall go armed with a concealed dirk, dagger, sword, pistol, or pistols, revolver, slung-shot, brass knuckles, or other offensive and dangerous weapon, he shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the state prison for a term of not more than two years, or by imprisonment in the county jail of the proper county not more than twelve months, or by fine not exceeding five hundred dollars, together with the costs of prosecution, or by both said fine and costs and either of said imprisonments; and he may also be required to find sureties for keeping the peace and against the further violation of this act for a term not exceeding two years: *provided*, that so going armed shall not be deemed a violation of this act whenever it shall be made to appear that such person had reasonable cause to fear an assault or other injury or violence to his person, or to his family or property, or to any person under his immediate care or custody, or entitled to his protection or assistance, or if it be made to appear that his possession of such weapon was for a temporary purpose, and with harmless intent."

The Revised Statutes of 1878 restated the concealed weapons prohibition as follows: "Any person who shall go armed with any concealed and dangerous weapon shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding one hundred dollars: provided, this section shall not apply to any policeman or officer authorized to serve process."

On November 3, 1998, Wisconsin voters approved adding Article I, Section 25 to the Wisconsin Constitution which provides that, "The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose."

In July, 2003, the Wisconsin Supreme Court ruled in *State v. Hamdan* that the general prohibition on carrying concealed weapons in Wisconsin was unconstitutional when applied to a grocery and liquor store owner who had carried a concealed weapon at the store that had been the target of four armed robberies and the site of two fatal shootings. The Court's ruling invited the Legislature "to consider the possibility of a licensing or permit system for persons who have a good reason to carry a concealed weapon." However, the Court also concluded that "Article I, Section 25 does not establish an unfettered right to bear arms. Clearly, the State retains the power to impose reasonable regulations on weapons, including a general prohibition on the carrying of concealed weapons."

Prior to the enactment of 2011 Act 35, the concealed weapons prohibition remained similar to the prohibition that had been restated in the Revised Statutes of 1878 (although the penalty for carrying concealed weapons had changed over the years). Prior to the enactment of 2011 Act 35, the law continued to provide as it had since the 1870s, that apart from peace officers, any person going armed with a concealed and dangerous weapon was guilty of a crime.

Similarly, the sanction for going armed with a concealed and dangerous weapon under current law remains similar to the sanction that was pro-

vided for under the Revised Statutes of 1878. While the sanction for going armed with a concealed and dangerous weapon was imprisonment in the county jail for not more than six months and a fine not exceeding \$100 in 1878, the current penalty for impermissibly going armed with a concealed and dangerous weapon is a Class A misdemeanor with a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

The provisions of 2011 Act 35, in addition to the prior exception for peace officers, created additional exceptions to the general rule that an individual may not carry a concealed and dangerous weapon. The following exceptions were created in Act 35 and are addressed in this informational paper: (a) licensed Wisconsin residents [Chapter 1]; (b) qualifying nonresidents licensed to carry concealed weapons in another jurisdiction [Chapter 1]; (c) out-of-state law enforcement officers [Chapter 2]; (d) former law enforcement

officers [Chapter 2]; and (e) 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.

Chapter 3 summarizes the restrictions on the permissibility of individuals to carry a concealed and dangerous weapon in public. Chapter 4 summarizes the administrative duties of the Department of Justice under the new concealed weapons law and administrative rules. Chapter 5 summarizes the handgun purchaser record check program that is also administered by the Department of Justice. The state's handgun purchaser record check program ensures that handguns are not sold or transferred in violation of state or federal law. Finally, Chapter 6 summarizes prior and current funding for the concealed weapons licensure program and the handgun purchaser record check program.

*AUTHORIZATION FOR RESIDENTS AND  
NONRESIDENTS TO CARRY CONCEALED WEAPONS*

Prior to the passage of 2011 Act 35, Wisconsin law prohibited carrying concealed and dangerous weapons by anyone other than active law enforcement officers. Act 35 created an exception to this general prohibition for 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. A license to carry a concealed and dangerous weapon is not required when the weapon does not leave the individual's dwelling, place of business, or land that the individual owns, leases, or legally occupies.

In addition, Act 35 permits Wisconsin residents to carry concealed and dangerous weapons in public (subject to certain restrictions specified in Chapter 3 of this paper) if they qualify for licensure and are licensed by the Department of Justice (DOJ). Finally, Act 35, permits qualified out-of-state licensees to carry concealed and dangerous weapons in public in Wisconsin. The remainder of this chapter discusses the licensure of Wisconsin residents to carry concealed and dangerous weapons in public, and the conditions under which out-of-state licensees may carry concealed weapons.

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**Licensure of Wisconsin Residents  
to Carry Concealed Weapons**

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Under 2011 Act 35, DOJ must issue a license to carry a concealed weapon to any Wisconsin resident not disqualified under state or federal law who completes the required application process. As initially provided under Act 35, an indi-

vidual issued a concealed weapons license could carry concealed a handgun, an electric weapon, a knife other than a switchblade knife, or a billy club. Subsequently, 2015 Act 149 provided that any person who is not prohibited from possessing a firearm under state law may carry a concealed knife, including a switchblade, regardless of whether the individual has obtained a concealed weapons license. As a result, while non-permit holders may now carry a concealed knife, individuals issued a concealed weapons license are granted the additional ability to carry concealed a handgun, an electric weapon, or a billy club. A Wisconsin concealed weapons license does not limit the licensee to the carrying of a particular weapon. Once issued a concealed weapons license, a licensee may carry any weapon permitted to be carried concealed under state statute.

**Content of Concealed Weapons License.**

Act 35 requires DOJ to design the concealed weapons license. The license must contain all of the following information on one side of the license: (a) the full name, date of birth, and residence address of the licensee; (b) a physical description of the licensee, including sex, height, and eye color; (c) the date of license issuance; (d) the date of license expiration; (e) the name of this state; and (f) a unique identification number for each licensee. The reverse side of the concealed weapons license must state the requirement (and penalty for violation of this requirement) that the licensee must inform DOJ of any address change no later than 30 days after any address change. The concealed weapons license may not include the licensee's social security number. A concealed weapons license must be similar to a state driver's license: (a) in how information is included on the license; and (b) in regards to its tamper

proof qualities.

Unlike a certification card issued to former law enforcement officers to carry a concealed firearm (discussed in Chapter 2), a concealed weapons license does not require a photograph of the licensee to be included on the license. In addition, unlike a certification card issued to former law enforcement officers, a concealed weapons license does not specify the type of concealed weapon the licensee is authorized to carry.

**Requirements for Licensure.** The Department must issue a concealed weapons license to an applicant unless the individual: (a) is less than 21 years of age; (b) is prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce; (c) is prohibited under state law from possessing a firearm; (d) has been charged with a misdemeanor or felony violation, and as a condition of release the individual is prohibited from possessing a dangerous weapon; (e) is on release prior to or after a criminal conviction, and as a condition of release the individual is prohibited from possessing a dangerous weapon; (f) is not a Wisconsin resident or military resident; or (g) has not provided the required proof of firearms training. Appendix I identifies the state and federal disqualifiers for possessing a firearm.

**Application.** Act 35 requires DOJ to design the concealed weapons application. The application may only require the applicant to provide his or her name, address, date of birth, state identification card number, race, sex, height, and eye color. The application must also include statements: (a) explaining that the applicant is ineligible for a license if one of the conditions in the prior paragraph applies to the applicant; (b) explaining self-defense and defense of others with a place for the applicant to sign to indicate that the applicant has read and understands the statement; (c) indicating that the applicant has read and understands the requirements of the concealed weapon licensure section of the statutes; (d) indi-

cating that an applicant may be prosecuted if the applicant intentionally gives a false answer to any question on the application or intentionally submits a falsified document with the application; (e) regarding the penalties for intentionally giving a false answer to any question on the application or intentionally submitting a falsified document with the application; and (f) regarding the places where a licensee is prohibited from carrying a weapon with a place for the applicant to sign to indicate that the applicant read and understands the statement. The Department must make concealed weapon applications available on the Internet and, upon request by an applicant, by mail.

A Wisconsin resident applying for a concealed weapons license must submit all of the following to DOJ: (a) a completed application form as developed by the Department; (b) a statement that the application and any document submitted with the application is true and complete to the best of the applicant's knowledge; (c) a license fee in an amount determined by DOJ by rule that is equal to the cost of license issuance but does not exceed \$37; (d) a background check fee; and (e) proof of required firearms training. Beginning June 1, 2013, the license fee was reduced from \$37 to \$30 by administrative rule. Under 2013 Act 20, the background check fee was reduced from \$13 to \$10.

Within 21 days after receiving a complete application, DOJ must either issue the concealed weapons license and promptly send the licensee his or her license by 1<sup>st</sup> class mail, or deny the application if any of the requirements for licensure identified above have not been met. As a part of determining whether or not the requirements for licensure have been satisfied by the applicant, DOJ must conduct a criminal background check on each applicant. If DOJ denies an applicant a concealed weapons license, the Department must inform the applicant, in writing, of this denial stating the reason and factual basis for the denial.

**Training.** The proof of training requirement may be satisfied with a copy of a document, or an affidavit from an instructor or organization that conducted the course or program, that indicates that the applicant completed: (a) a hunter education program established under state law or recognized by Wisconsin's Department of Natural Resources; (b) a firearms safety or training course that is conducted by a national or state organization that certifies firearms instructors; (c) a firearms safety or training course that is available to the public and is offered by a law enforcement agency; (d) a firearms safety or training course taught by: (1) an instructor who is certified by DOJ or by a national or state organization that certifies firearms instructors; (2) a technical college, a college or university, a private or public institution or organization; or (3) a firearms training school; (e) 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; and (f) a firearms safety or training course that is conducted by a firearms instructor who is certified by either: (1) a national or state organization that certifies firearms instructors; or (2) DOJ.

The proof of training requirement may also be satisfied with any of the following: (a) documentation that the applicant completed military, law enforcement, or security training that gave the applicant experience with firearms that is substantially equivalent to the experience provided by a course or program listed in the previous paragraph; (b) a current or expired license, or a photocopy of a current or expired license, that the applicant holds or has held, provided that the license has not been revoked for cause, that indicates that the applicant is licensed or has been licensed to carry a firearm in this state, in another state, in a county or municipality of this state, or a county or municipality of another state; and (c) documentation of completion of small arms training while serving in the U.S. armed forces, reserves, or national guard as demonstrated by an honorable discharge, 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.

As noted above, an individual may complete a firearms safety or training course to satisfy the application's training requirement. The minimum requirements for a firearms safety or training course that may be used as proof of training for a concealed carry license are defined by administrative rule. An acceptable course must, at minimum, instruct on and practice the student's comprehension of: (a) firearm safety rules; (b) safe firearm and ammunition use, handling, transport, and storage; (c) legally permissible possession, transportation, and use of firearms, including the use of deadly force; and (d) techniques for avoiding and controlling violent confrontations. The course must also be instructor-led, which means that it is conducted face-to-face either individually or in groups. The instructor must actively guide students through each lesson, as well as answer questions, facilitate discussion, and provide feedback on activities and assignments. Courses which are self-directed or learner-led, such as where students independently learn through web pages, multimedia presentations, computer applications, online presentations, or similar methods, are not considered instructor-led and, therefore, cannot be used to meet the training requirement. Finally, the instructor or organization conducting the course must provide those individuals who successfully complete the firearms safety or training course with a certificate or affidavit as proof of successful completion.

These minimum requirements for firearms safety or training courses do not include a minimum time requirement. In addition, Act 35 specifically provides that DOJ may not require firing live ammunition to satisfy the training requirement to carry concealed weapons.

By rule, DOJ must prepare a model training curriculum and make that model available to

firearms instructors who are certified by the Department. Instructors who are not certified by the Department may also use the model curriculum, but they may not represent themselves or their courses as certified or approved by DOJ.

An applicant seeking to satisfy the minimum training requirement through the completion of a firearms safety or training course must, by rule, submit evidence sufficient to establish that the firearms safety or training course met DOJ's minimum requirements. Sufficient evidence includes one of the following: (a) a signed statement by the instructor who taught the firearms safety or training course to the applicant affirming that the course met DOJ's minimum requirements; (b) information on the certificate or affidavit submitted by the applicant that the course completed by the applicant met DOJ's minimum requirements for an authorized firearms safety or training course; or (c) a signed statement by the applicant that: (1) affirms that the applicant successfully completed the firearms safety or training course; and (2) describes the scope and contents of the course in a manner sufficient to determine that the course met DOJ's minimum requirements.

Applicants who seek to satisfy the minimum training requirements through the completion of a firearms safety or training course must also submit a certificate or affidavit as proof of their completion of the course. The certificate or affidavit must be provided by the instructor or organization conducting the course, and include the following information: (a) the applicant's name; (b) the name of the firearms safety or training course; (c) the date on which the applicant completed the firearms safety or training course; (d) the name of the instructor who taught the firearms safety or training course to the applicant; and (e) the name of the agency or organization that certified the instructor. The Department must prepare and make available (on DOJ's website) a model training certificate containing the necessary information enumerated above.

The minimum requirements relating to firearms safety or training courses do not apply to applicants who satisfy the training requirement through: (a) successful completion of a hunter education program; (b) licensure to carry a firearm from another state, or from a county or municipality in another state; (c) documentation of completion of military, law enforcement, or security training; and (d) documentation of completion of small arms training while serving in the U.S. armed forces, reserves, or national guard.

Firearms instructors providing the required training may be certified by DOJ, but may also be certified by national or state organizations that certify firearms instructors. Not all approved training options require certified instructors.

The Department of Justice must maintain a list of all instructors that it certifies. To be certified by DOJ as a firearms instructor, a person must qualify for a concealed weapons license under state law, and must be able to demonstrate the ability and knowledge required for providing firearms safety and training. Additionally, an individual must be certified as a law enforcement firearms instructor by the Law Enforcement Standards Board. An individual's firearms instructor certification from the Department is in effect and renewed only when the individual's certification by the Law Enforcement Standards Board is in effect and renewed. A Department-certified firearms instructor must use the model training curriculum and model training certificate provided by the Department when teaching a firearms safety or training course under the authority of the Department's certification.

If at any time a Department-certified firearms instructor becomes ineligible to carry a concealed weapon, the instructor must notify DOJ's Training and Standards Bureau of the circumstances giving rise to his or her ineligibility within 48 hours of becoming ineligible. Upon notification of ineligibility, the Training and Standards Bureau will immediately suspend the instructor's

certification and provide notice of the suspension to DOJ's Crime Information Bureau. The suspension remains in effect for as long as the individual remains ineligible to carry a concealed weapon.

The Department of Justice may revoke the certification of a firearms instructor who has been certified by the Department if: (a) the instructor does not notify the Department's Training and Standards Bureau of becoming ineligible to carry a concealed weapon within 48 hours of becoming ineligible; or (b) the instructor does not use the model training curriculum or model training certificate provided by the Department when teaching a firearms safety or training course under the authority of the Department's firearms instructor certification. The Department must send the instructor written notification of any such revocation and afford the instructor the opportunity to request a hearing.

**Emergency Licensure.** A Wisconsin resident may petition the circuit court in the county in which the applicant resides for an emergency concealed weapons license. Unless the court knows that the applicant is ineligible for a license for one of the reasons identified under the "Requirements for Licensure" section above, the court may issue an emergency concealed weapons license if the court determines that immediate licensure is warranted to protect the individual from death or great bodily harm.

An emergency concealed weapons license is valid for 30 days unless it is revoked or voided. If the court issuing the emergency concealed weapons license subsequently determines that the individual is ineligible for a license, the court must revoke the emergency license. If the holder of an emergency concealed weapons license applies for and is denied a regular concealed weapons license for one of the reasons identified under the "Requirements for Licensure" section above, the emergency concealed weapons license is void.

**Lost or Destroyed License.** If a concealed weapons license is lost, destroyed, unreadable, or unusable, a licensee may request a replacement license for a \$12 fee. The Department of Justice must issue a replacement concealed weapons license within 14 days of receiving the request and the \$12 fee.

**License Expiration and Renewal.** A Wisconsin concealed weapons license is generally valid for five years from the date of issuance unless the license is suspended or revoked. However, the concealed weapons 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 individual's overseas deployment unless the license is suspended or revoked.

At least 90 days before the expiration date of a concealed weapons license, DOJ must mail to the licensee a notice of expiration form and a license renewal form. The Department must design both forms. The required content and restrictions applicable to the original application form also apply to the renewal form.

Provided the required criminal background check does not identify a license disqualifier, DOJ must renew a licensee's concealed weapons license if, no later than 90 days after the expiration date of the license, the licensee submits all of the following to DOJ: (a) a completed license renewal form as developed by the Department; (b) a statement that the license renewal form is true and complete to the best of the licensee's knowledge and that the licensee is not disqualified to be licensed under Wisconsin law; (c) a license renewal fee in an amount determined by DOJ by rule that is equal to the cost of license renewal but does not exceed \$12; and (d) a background check fee. Currently, the license renewal fee is set at the maximum \$12 and the background check fee is set at \$10. Provided a licensee passes the criminal background check and

submits the required documents and fees, DOJ must issue a renewed concealed weapons license by 1<sup>st</sup> class mail within 21 days of receipt of these items.

**License Suspension and Revocation.** The Department of Justice must suspend a concealed weapons license if a court has prohibited the licensee from possessing a dangerous weapon under state law. If the court prohibition from possessing a dangerous weapon is lifted, DOJ must generally restore the license within five business days of notification that the licensee is no longer subject to the prohibition.

The Department of Justice must revoke a concealed weapons license if it determines that the licensee: (a) is prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce; (b) is prohibited under state law from possessing a firearm; (c) is on release prior to a possible conviction, and as a condition of release the individual is prohibited from possessing a dangerous weapon; (d) is not a Wisconsin resident or military resident; or (e) has not provided the required proof of firearms training. Under 2013 Act 167, DOJ may no longer revoke a concealed carry license because a court prohibits an individual from possessing a dangerous weapon as a condition of their release after being charged with a felony or misdemeanor. While DOJ may not issue a concealed weapons license to an individual who is less than 21 years of age, the subsequent determination that an individual is, in fact, less than 21 years of age may not be utilized to revoke the individual's concealed weapons license.

If DOJ suspends or revokes a concealed weapons license, it must mail to the affected licensee notice of the suspension or revocation within one day after the suspension or revocation. The suspension or revocation takes effect when the licensee receives the written notice of suspension or revocation from DOJ. Within seven days

after receiving the notice of suspension or revocation of the concealed weapons license, the individual must either: (a) deliver the license document personally or by certified mail to the Department; or (b) mail a signed statement to DOJ stating that he or she no longer has possession of the license document and explaining why the individual no longer has possession.

**Appeal of Licensure Denial, Suspension, or Revocation.** Under state law, DOJ must create an administrative review procedure to provide for the review of departmental actions denying concealed weapons license applications, or suspending or revoking concealed weapons licenses. Notwithstanding the requirement to develop this administrative review procedure, any individual whose concealed weapons license application is denied, and any licensee whose concealed weapons license is suspended or revoked, may bypass this administrative review procedure and appeal DOJ's decision directly to the circuit court of the county in which the individual resides.

To appeal to the circuit court, an individual must file a petition for review with the court within 30 days of receiving the notice of denial, suspension, or revocation. The petition must state the DOJ action which the individual is appealing and the reasons why the individual believes DOJ erred. The petition may include records or documents that bear on the reasons why the individual believes DOJ's actions to be erroneous.

A copy of the individual's petition to the court must be served upon DOJ either personally or by registered or certified mail within five days after the individual files the petition with the circuit court. The Department of Justice must file an answer to the individual's circuit court petition within 15 days after being served the petition. The answer must include a brief statement of the actions taken by DOJ as well as any documents or records on which it based its action.

The circuit court must review the individual's

petition, DOJ's answer, and any records or documents submitted by either party. The review must be conducted by the circuit court without a jury, but the court is permitted to schedule a hearing and take testimony.

The circuit court must reverse DOJ's action if it determines that: (a) DOJ failed to follow any procedure, or take any action, required by state statute governing the concealed weapons program; (b) DOJ erroneously interpreted state law and a correct interpretation of state law leads to a different outcome for the appealing individual; (c) DOJ's action depended on a finding of fact that was not supported by substantial evidence in the record submitted to the court; (d) the license denial was based on factors other than those identified in this chapter under the "Requirements for Licensure" section; and (e) the license suspension or revocation was based on criteria other than those identified in this chapter under the "License Suspension and Revocation" section.

The circuit court's decision must provide whatever relief is appropriate regardless of the original form of the appealing individual's petition. If the circuit court reverses the action taken by DOJ, the court may order DOJ to pay the appealing individual's court costs and reasonable attorney fees.

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### **Authorization of Out-of-State Licensees to Carry Concealed Weapons**

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As an additional exception to the general prohibition against carrying concealed and dangerous weapons, 2011 Act 35 provided that qualified out-of-state licensees may carry concealed and dangerous weapons. As with Wisconsin residents who have been issued a concealed weapons license, out-of-state licensees who are authorized to carry concealed and dangerous weapons may carry concealed a handgun, an electric weapon or

a billy club.

An out-of-state licensee is an individual who is at least 21 years old, is not a Wisconsin resident, and has been issued an out-of-state license. A Wisconsin resident cannot carry a concealed weapon in public in Wisconsin unless he or she has been issued a Wisconsin concealed weapons license.

An out-of-state license is a valid permit, license, approval, or other authorization issued by another state, if: (a) the permit, license, approval, or other authorization is for the carrying of a concealed weapon; and (b) the state is listed by DOJ as either requiring a background search, or, if the state does not require a background search, the permit, license, approval, or authorization indicates that the holder chose to submit to a background search.

Act 35 requires DOJ to promulgate a rule listing states that issue a permit to carry a concealed weapon if the permit requires, or designates, that the holder chose to submit to a background search that is comparable to the background search required under Wisconsin law before a resident can be issued a concealed weapons license. Beginning June 1, 2013, the administrative rules provide that a background search required by another state for the issuance of a concealed carry license will be deemed comparable if: (a) the state, by statute or administrative rule, expressly requires a background check that includes a National Instant Criminal Background Check System (NICS) search as a prerequisite for obtaining a concealed carry license; or (b) the state, through the office of its attorney general or another appropriate agency or official, has informed Wisconsin's DOJ that the state, as a matter of policy, requires a background check that includes a NICS search as a prerequisite for obtaining a concealed carry license. This background check requirement may be satisfied even if under another state's rules applicants are not disqualified from carrying concealed weapons for the same

reasons that Wisconsin applicants are disqualified.

The Department may enter into reciprocity agreements with other states regarding matters relating to licenses or other authorizations to carry concealed weapons. By rule, the Department

of Justice must maintain and make available (on DOJ's website) the list of states deemed to conduct a background search that is comparable to Wisconsin's background search. Appendix II lists those states and territories with comparable background checks.

*CONCEALED CARRY BY LAW ENFORCEMENT AND  
FORMER LAW ENFORCEMENT OFFICERS*

Since the 1870s, active law enforcement officers have been exempted from the general state law prohibition against carrying concealed and dangerous weapons.

In 2004, federal law expanded the right of law enforcement officers in Wisconsin and elsewhere to carry concealed firearms. Under the federal Law Enforcement Officers Safety Act (LEOSA) of 2004, notwithstanding any state or local law to the contrary, qualified law enforcement officers and qualified retired law enforcement officers possessing required identification may carry concealed firearms that have been shipped or transported in interstate or foreign commerce. In 2013, LEOSA was amended to clarify that military police officers and civilian police officers employed by the federal government met the definitions under the Act. However, the federal act provides that its provisions may not be interpreted to supersede or limit the laws of any state that: (a) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; and (b) prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park.

The provisions of 2011 Wisconsin Act 35 created additional exemptions from the general state law prohibition against carrying concealed and dangerous weapons for out-of-state law enforcement officers and former law enforcement officers.

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**Out-of-State Law Enforcement Officers**

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A "qualified out-of-state law enforcement officer" may carry a concealed firearm in Wisconsin if: (a) the weapon is a firearm but not a machine gun or a destructive device as defined under federal law; (b) the officer is not carrying a firearm silencer; and (c) the officer is not under the influence of an intoxicant. When carrying a concealed firearm, a "qualified out-of-state law enforcement officer" must have with him or her an identification card issued by the officer's employing law enforcement agency that contains the officer's photograph.

An out-of-state law enforcement officer is a "qualified out-of-state law enforcement officer" if: (a) the officer is employed by a state or local government agency in another state; (b) the agency has authorized the officer to carry a firearm; (c) the officer 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; (d) the officer meets all of the standards established by his or her agency to qualify on a regular basis to use a firearm; and (e) the officer is not prohibited under federal law from possessing a firearm.

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**Former Law Enforcement Officers**

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**Required Documentation.** While carrying a concealed firearm, a former law enforcement of-

ficer must have one of the following combinations of documentation:

a. A photographic identification document issued by the former law enforcement officer's former law enforcement agency that indicates that, within the last 12 months, the former officer was tested or otherwise found by his or her former law enforcement agency to meet the standards for qualification in firearms training that the law enforcement agency sets for active law enforcement officers to carry a firearm of the same type as the firearm that the former officer is carrying.

b. For Wisconsin residents, a photographic identification document issued by the former officer's former law enforcement agency and a certification card issued pursuant to Wisconsin law and described below.

c. For nonresidents, a photographic identification document issued by the former officer's former law enforcement agency and a certification issued by the state in which the former officer resides that indicates that, within the last 12 months, the former officer has been found by the state in which the officer resides, or by a certified firearms instructor if such an instructor is qualified to conduct a firearms qualification test for active law enforcement officers in that state, to meet the standards for qualification in firearms training for active law enforcement officers to carry a firearm of the type he or she is carrying, that are established by the former officer's state of residence or, if that state does not establish standards, by any law enforcement agency in his or her state of residence.

Any law enforcement agency subject to Wisconsin law, or that law enforcement agency's successor agency, must issue certification cards to former law enforcement officers formerly employed by the agency to carry concealed firearms if the requirements of state law are satisfied. Cer-

tification cards must specify the type of firearm the former law enforcement officer is authorized to carry. A certification card to carry a concealed firearm is valid for 12 months from the date of issuance.

**Photographic Identification from Former Law Enforcement Agency.** Given the requirement that a former law enforcement officer must have photographic identification from his or her former law enforcement agency to carry concealed firearms, Act 35 provides that if a Wisconsin law enforcement agency issues photographic identification to its officers, the agency may not require an officer to surrender his or her ID card when the officer ends employment with the agency, unless: (a) the officer may not possess a firearm under federal law; (b) the officer did not separate from service in good standing as a law enforcement officer with the agency; (c) the officer served as a law enforcement officer for less than 10 years, unless the officer, after completing any probationary period of service with the agency, separated from service with the agency due to a service-related disability, as determined by the agency; or (d) either of the following applied: (1) a qualified medical professional employed by the law enforcement agency found the officer to be unqualified to be a law enforcement officer for reasons related to the officer's mental health; or (2) the officer entered into an agreement with the law enforcement agency in which the officer acknowledged that the officer is not qualified to be a law enforcement officer for reasons related to the officer's mental health.

Unless one of the above disqualifiers applies, if a Wisconsin law enforcement agency does not issue photographic identification cards to its officers, the law enforcement agency, or its successor agency, must issue such a card to an officer who leaves employment with the agency upon the law enforcement officer's request and at the officer's expense.

**Content of Wisconsin Certification Card.** It is the responsibility of state law enforcement agencies to design and issue certification cards to former law enforcement officers they previously employed who are eligible and seeking to carry a concealed weapon. However, it is the responsibility of the Department of Justice to design and issue certification cards for former federal law enforcement officers, and former out-of-state law enforcement officers residing in Wisconsin, who are eligible and seeking to carry concealed firearms. Each certification card issued by a law enforcement agency, including DOJ, must include all of the following information on one side of the certification card: (a) the full name, date of birth, and residence address of the person who holds the certification card; (b) a photograph of the certification card holder; (c) a physical description that includes sex, height, and eye color; and (d) the name of this state. The card must also include a statement that it does not confer any law enforcement authority on the card holder and does not make the card holder an employee or agent of the certifying law enforcement agency. As with a concealed weapons license, a certification card may not contain the card holder's social security number.

Each certification card issued by a law enforcement agency to its former law enforcement officer, and each certification card issued by DOJ to a former federal law enforcement officer or out-of-state law enforcement officer, must state all of the following: (a) the type of firearm the former law enforcement officer is certified to carry; (b) that the former law enforcement officer has been found by the state, or by a certified firearms instructor if such an instructor is qualified to conduct a firearms qualification test for active law enforcement officers in the state, to meet the standards for qualification in firearms training for active law enforcement officers to carry a firearm of the type identified under (a) that are established by the state or, if the state does not establish standards, by the law enforcement agency from which the former law enforcement officer

separated (or, for former federal and out-of-state law enforcement officers, by any law enforcement agency in the state); (c) the date on which the finding was made under (b) and an expiration date that is 12 months later than that date; and (d) that as a result of the finding under (b) the former law enforcement officer is qualified to carry a firearm of the type under (a). A former law enforcement officer may not be certified to carry a machine gun, a firearm silencer, or a destructive device as defined under federal law.

Unlike certification cards issued to former law enforcement officers, concealed weapons licenses issued to Wisconsin residents do not require a photograph of the licensee to be included on the license. In addition, unlike a certification card issued to former law enforcement officers, concealed weapons licenses issued to Wisconsin residents do not specify the type of concealed weapon the licensee is authorized to carry. While certification cards are valid for 12 months, concealed weapons licenses issued to Wisconsin residents are valid for five years.

**Requirements for a Wisconsin Certification Card.** A law enforcement agency for its former law enforcement officer, and DOJ for former federal and out-of-state law enforcement officers, may not issue a certification card to carry a concealed weapon unless the agency determines that the following five requirements for certification have been met.

First, the former law enforcement officer must have left service in good standing.

Second, the former law enforcement officer must have either: (a) served as a law enforcement officer for at least 10 years; or (b) left law enforcement due to a service-connected disability, as determined by his or her law enforcement agency, after completing any applicable probationary period.

Third, both of the following must be true: (a)

a qualified medical professional employed by the law enforcement agency has not found the former law enforcement officer to be unqualified to be a law enforcement officer for reasons related to the former officer's mental health; and (b) the former law enforcement officer has not entered into an agreement with his or her former law enforcement agency in which the former officer acknowledges that he or she is not qualified to be a law enforcement officer for reasons related to his or her mental health.

Fourth, federal law does not prohibit the former law enforcement officer from possessing a firearm.

Finally, the former law enforcement officer has, during the past 12 months, at his or her own expense, been found by the state, or by a certified firearms instructor if such an instructor is qualified to conduct a firearms qualification test for active law enforcement officers in the state, to meet the standards for qualification in firearms training for active law enforcement officers to carry a firearm of the type the former officer would be authorized to carry under his or her certification card that are established by the state, or if the state does not establish standards, by the law enforcement agency from which the former

officer separated (or for former federal out-of-state law enforcement officers by any law enforcement agency in the state).

A former law enforcement officer is required to reimburse the former law enforcement agency for the costs of issuing a certification card. Former federal law enforcement officers being issued Wisconsin certification cards by DOJ are required to reimburse DOJ for the cost of issuing the certification card.

**Requirements to Carry a Concealed Firearm.** If a former law enforcement officer possesses the required documentation identified above, the former law enforcement officer may carry a concealed firearm if: (a) the concealed firearm is of the type described in the required documentation identified above; (b) within the preceding 12 months the former law enforcement officer has met the standards of the state in which he or she resides for training and qualification for active law enforcement officers to carry firearms; (c) the weapon is not a machine gun or a destructive device; (d) the former officer is not carrying a firearm silencer; (e) the former officer is not under the influence of an intoxicant; and (f) the former officer is not prohibited under federal law from possessing a firearm.

*GOING ARMED IN PUBLIC WITH A CONCEALED WEAPON*

The provisions of 2011 Act 35 newly permit Wisconsin residents who have been issued concealed weapons licenses, as well as out-of-state licensees, out-of-state law enforcement officers, and former law enforcement officers, to carry concealed weapons in public. However, Act 35 prescribes some limitations to the right to carry concealed. The remainder of this chapter addresses these limitations.

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### **Required Documentation**

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Unless a concealed weapons licensee or out-of-state licensee is carrying a concealed and dangerous weapon in his or her own dwelling, place of business, or on land that he or she owns, leases, or legally occupies, a concealed weapons licensee or out-of-state licensee must have with him or her the concealed weapons license document and a photographic identification card at all times during which he or she is carrying a concealed weapon. Similarly, while carrying a concealed firearm, an out-of-state law enforcement officer must have the officer's identification card that contains his or her photograph and that was issued by his or her employing law enforcement agency. Finally, while carrying a concealed firearm, a former law enforcement officer must have with him or her photographic identification issued by his or her former law enforcement agency or DOJ and any applicable certification card.

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### **Prohibited Activity**

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Generally, 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 in any of the following places: (a) 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; (b) any portion of a building that is a prison, jail, house of correction, or secured correctional facility; (c) a secure mental health facility for sexually violent persons; (d) the Wisconsin Resource Center operated by the Departments of Health Services and Corrections on the grounds of the Winnebago Mental Health Institute; (e) any secured unit or secured portion of a mental health institute, including the Maximum Security Facility at Mendota Mental Health Institute; (f) any portion of a building that is a county, state, or federal courthouse; (g) any portion of a building that is a municipal courthouse if court is in session; and (h) a place beyond a security checkpoint in an airport. Under state statute, these restrictions do not apply to the carrying of concealed weapons by out-of-state law enforcement officers and former law enforcement officers.

A licensee or out-of-state licensee who carries a concealed weapon in one of the prohibited areas listed above may be fined not more than \$500, imprisoned for not more than 30 days, or both.

A licensee or out-of-state licensee may have a weapon in a vehicle driven or parked in a parking facility located in a building, or any portion of a building, that is used for one of the purposes described above. In addition, a weapon may be permitted in a courthouse or courtroom (notwithstanding the general prohibition outlined in the above paragraph) if: (a) a judge who is a licensee

is carrying the weapon; (b) a licensee or out-of-state licensee is carrying the weapon, and the judge, in writing, has permitted the licensee or out-of-state licensee to carry a weapon; or (c), a district attorney or assistant district attorney who is a licensee is carrying the concealed weapon.

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### **Public and Private Property Restrictions**

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The provisions of 2011 Act 35 grant property owners certain rights to exclude individuals from carrying firearms on their property. Apart from single-family residences, these restrictions do not apply to a firearm in a vehicle driven or parked: (a) in a parking facility; or (b) to any part of a building, grounds, or land used as a parking facility.

Individuals carrying firearms may be excluded from the public and private properties identified below if appropriate notice of the firearms restriction is provided. For purposes of providing notice of firearms restrictions to individuals carrying firearms, a posted sign must be at least five inches by seven inches. In order to provide notice other than for single family residences and for individual units in a multi-family residence, signs must be posted near all of the entrances to the part of the building to which the restriction applies or near all probable access points to the grounds to which the restriction applies and any individual entering the building or the grounds can be reasonably expected to see the sign.

An individual carrying a firearm may not enter or remain:

a. At a residence that is not his or her own residence if the owner or occupant of the residence has notified the individual not to enter or remain at the residence while carrying a firearm or with that type of firearm. A single family residence includes the residence building and the land on which the building is located. A multi-

family residence does not include any common areas of the building in which the residence is located nor any common areas of the rest of the parcel of land on which the multi-family residence building is located.

b. In a common area or on the grounds of a multi-family residence that is not his or her residence, if the owner of the multi-family residence has notified the individual not to enter or remain in the common area or on the grounds of the multi-family residence while carrying a firearm or with that type of firearm.

c. In any part of a nonresidential building, grounds of a nonresidential building, or land that the individual does not own or occupy if the owner or occupant of the nonresidential building, grounds, or land, has notified the individual not to enter or remain in that part of the building, grounds, or land while carrying a firearm or with that type of firearm. This prohibition does not apply to a part of a building, grounds, or land occupied by the state or by a local governmental unit, 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.

d. At a special event if the organizers of the special event have notified the individual not to enter or remain at the special event while carrying a firearm or with that type of firearm. Under this section of statute, a special event is defined as an event that is open to the public, is for 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.

e. In any part of a building that is owned, occupied, or controlled by the state or any local governmental unit (other than government properties addressed under the prohibited activity section above), if the state or local governmental unit has notified the individual not to enter or remain in the building while carrying a firearm or

with that type of firearm. This prohibition does not apply to a licensee who leases residential or business premises in the building.

f. In any privately or publicly owned building on the grounds of a university or college, if the university or college has notified the individual not to enter or remain in the building while carrying a firearm or with that type of firearm. This prohibition does not apply to a licensee who leases residential or business premises in the building.

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### **Employer Restrictions**

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An employer may generally prohibit its employees who are licensees or out-of-state licensees from carrying a concealed weapon or a particular type of concealed weapon in the course of employment. However, an employer may not prohibit its employees who are licensees or out-of-state licensees, as a condition of employment, from carrying a concealed weapon or from storing a 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. The statutes do not address whether an employer may prohibit a former law enforcement officer from carrying a concealed weapon in the course of employment.

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### **Gun-Free School Zones**

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While there are exceptions, generally any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is in or on the grounds of a school is guilty of a Class I felony. A Class I felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed three years and six

months (confinement in prison not to exceed one year and six months, and extended supervision not to exceed two years), or both. Any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is within 1,000 feet of the grounds of a school is subject to a Class B forfeiture (a forfeiture not to exceed \$1,000).

Act 35 exempted concealed weapons licensees and out-of-state licensees (but not out-of-state law enforcement officers and former law enforcement officers) from the prohibition to knowingly possess a firearm within 1,000 feet of the grounds of a school. Licensees and out-of-state licensees generally remain subject to a Class I felony for possessing a firearm at a place that the licensee knows, or has reasonable cause to believe, is in or on the grounds of a school.

More recently, 2015 Act 23 provided that former law enforcement officers who are eligible to carry a concealed weapon and have the requisite certification card are exempt from the prohibition of possession of a firearm on school grounds. In addition, Act 23 generally provides that qualified out-of-state law enforcement officers and individuals employed in Wisconsin by a public agency as a law enforcement officer are also exempt from the prohibition to knowing possession of a firearm on school grounds.

The prohibition of possessing a firearm on, or within 1,000 feet of, a school ground does not apply if the individual possesses a gun which is not loaded and is either encased or in a locked firearms rack that is on a motor vehicle.

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### **Alcohol Beverages**

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State law provides that whoever intentionally goes armed with a handgun on any premises for which an alcohol beverage license or permit has been issued is generally guilty of a Class A mis-

demeanor (a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both). This prohibition does not apply to: (a) a law enforcement officer; (b) a correctional officer while going armed in the line of duty; (c) a member of the U.S. armed forces or national guard while going armed in the line of duty; (d) certain private security individuals; and (e) the licensee, owner, or manager of the premises on which alcohol beverages are sold, or any employee or agent authorized to possess a handgun by the licensee, owner, or manager of the premises. This prohibition also does not apply to: (a) the possession of a handgun that is unloaded and encased in a vehicle in any parking lot area; (b) the possession or use of a handgun at a public or private gun or sportsmen's range or club; (c) the possession or use of a handgun on the premises if authorized for a specific event of limited duration by the owner or manager of the premises on which alcohol beverages are sold; (d) the possession of any handgun that is used for decoration if the handgun is encased, inoperable or secured in a locked condition; (e) the possession of a handgun in any portion of a hotel other than the portion of the hotel that is a tavern; and (f) the possession of a handgun in any portion of a combination tavern and store devoted to other business if the store is owned or operated by a firearms dealer, the other business includes the sale of handguns and the handgun is possessed in a place other than a tavern.

Act 35 created additional exceptions to the prohibition that whoever intentionally goes armed with a handgun on any premises for which an alcohol beverage license or permit has been issued is generally guilty of a Class A misdemeanor. Under Act 35, a concealed weapons licensee and an out-of-state concealed weapons licensee may carry a concealed handgun on any premises for which an alcohol beverage license or permit has been issued, provided that the licensee or out-of-state licensee is not consuming

alcohol on the premises. In addition, qualified out-of-state law enforcement officers and former law enforcement officers are permitted to carry concealed handguns on any premises for which an alcohol beverage license or permit has been issued, provided that the officer is not under the influence of an intoxicant.

Finally, state law (both before and after the passage of Act 35) provides that if an individual is under the influence of an intoxicant or has a detectable amount of a controlled substance in his or her blood and goes armed with a firearm, he or she is guilty of a Class A misdemeanor (a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both).

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### **Disorderly Conduct**

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Prior to Act 35, whoever, in a public or private place, engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tended to cause or provoke a disturbance, could be charged and convicted of a Class B misdemeanor (a fine not to exceed \$1,000, or imprisonment not to exceed 90 days, or both). No exception was made from this disorderly conduct statute for individuals carrying firearms in public.

Under Act 35, an individual may not be charged with disorderly conduct for loading, carrying, or going armed with a firearm in private or public, regardless of whether the firearm is loaded, concealed, or openly carried, unless other facts and circumstances indicate a criminal or malicious intent on the part of the individual. A similar exemption to a disorderly conduct violation was extended to the carrying of a concealed or openly carried knife under 2015 Act 149.

*ADMINISTRATION OF THE CONCEALED WEAPONS  
LAW BY THE DEPARTMENT OF JUSTICE*

The Firearms Unit of DOJ's Crime Information Bureau is responsible for administering the concealed weapons licensure and certification program. The provisions of Act 35 generally took effect on November 1, 2011, except for the following provisions which took effect on July 23, 2011: (a) amendment of the disorderly conduct statutes; (b) the requirement that DOJ promulgate rules regarding which states issue authorizations to carry firearms that will be recognized as out-of-state licenses in Wisconsin; (c) the requirement that DOJ and local law enforcement agencies design certification cards for former law enforcement officers; and (d) the requirement that DOJ design the concealed weapons license document and create license applications. In addition, permanent rules regarding the administration of the concealed carry licensure program and the certification cards for former federal law enforcement officers took effect on June 1, 2013.

The provisions of Act 35 created new responsibilities for DOJ in three main areas: (a) the licensure of Wisconsin citizens to carry concealed weapons; (b) the issuance of certification cards to former federal law enforcement officers seeking to carry concealed firearms; and (c) the development of a concealed weapons licensee database and associated interfaces with federal law enforcement databases, the DOJ Transaction Information for the Management of Enforcement (TIME) System, and the circuit court system's Consolidated Court Automation Program (CCAP). The additional responsibility of issuing certification cards to out-of-state law enforcement officers who reside in Wisconsin was created under 2015 Act 68.

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**Concealed Weapons Licensure**

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**Initial Licensure.** Under Act 35, DOJ is required to design an application form and license for Wisconsin residents seeking licensure to carry a concealed weapon. An individual may apply for a concealed weapons license with DOJ by submitting all of the following: (a) a completed application; (b) a statement that the information provided in the submitted application and any document submitted with the application is true and complete to the best of the applicant's knowledge; (c) a license fee in an amount, as determined by DOJ rule, that is equal to the cost of issuing the license but does not exceed \$37 (DOJ is required to determine the costs of issuing a license by using a five-year planning period); (d) a background check fee equal to the fee charged for a firearms restrictions record search under s. 175.35(2i); and (e) proof of firearms training. Beginning June 1, 2013, the administrative rules reduced the license fee for a concealed weapons license from \$37 to \$30. The background check fee is currently set at \$10 under state statute.

The Department must conduct a background check to determine if an individual is qualified under state and federal law to possess a firearm. The Department must maintain a record of all completed application forms and a record of all approval or nonapproval numbers issued in regards to required background checks.

In order to satisfy the proof of firearms training requirement, among other approved methods (all of which are discussed in the "Training" sec-

tion of Chapter 1 of this paper), an individual may attend a firearms safety or training course conducted by a firearms instructor who is either certified by a national or state organization that certifies firearms instructors, or who is certified by DOJ. The Department is required to maintain a list of instructors that it certifies.

By rule, in order for a firearms safety or training course to be utilized as proof of training for a concealed carry license, the course must, at minimum, instruct and practice the student's comprehension of: (a) firearm safety rules; (b) safe firearm and ammunition use, handling, transport, and storage; (c) legally permissible possession, transportation, and the use of firearms, including use of deadly force; and (d) techniques for avoiding and controlling violent confrontations. The course must also be instructor-led, which means that it is conducted face-to-face either individually or in groups. The instructor must actively guide students through each lesson, as well as answer questions, facilitate discussion, and provide feedback on activities and assignments.

The Department must prepare and make available a model training curriculum for firearms instructors who are certified by the Department to use in their firearms safety or training courses. Instructors who are not certified by the Department may also use the model curriculum prepared by DOJ, but they may not represent themselves or their courses as certified or approved by DOJ. As proof of their completion of a firearms safety or training course, an applicant must submit a copy of a document, or an affidavit from the instructor or organization that conducted the course, verifying the applicant's completion off the course. The Department must make available to the public (via DOJ's website) a model certificate which may be used by applicants as proof of their completion of a firearms safety or training course.

Under Act 35, DOJ is required to issue a concealed weapons license to an individual unless

the individual is: (a) not at least 21 years of age; (b) prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce; (c) prohibited from possessing a firearm under Wisconsin law; (d) charged with a misdemeanor or felony violation, and as a condition of release the individual is prohibited from possessing a dangerous weapon; (e) on release prior to or after a criminal conviction, and as a condition of release the individual is prohibited from possessing a dangerous weapon; (f) not a Wisconsin resident or military resident; or (g) lacking required proof of firearms training.

Upon receiving an application for a license to carry a concealed firearm, the Department has 21 days to either approve or deny the request. If the Department denies the application, the Department must inform the applicant, in writing, the reason(s) and factual basis for the denial.

A concealed weapons license must contain all of the following on one side: (a) the full name, date of birth, and residence address of the licensee; (b) a physical description of the licensee, including sex, height, and eye color; (c) the date on which the license was issued; (d) the date on which the license expires; (e) the name of this state; and (f) a unique identification number for each licensee. The reverse side of the concealed weapons license must state the requirement that the licensee must inform DOJ of any address change no later than 30 days after any address change and the penalty for any violation of this requirement. The contents of the concealed weapons license must be included on the physical license in substantially the same way that the contents of a Wisconsin driver's license are included on that physical license. Further, the concealed weapons license must be tamper proof in substantially the same way that a Wisconsin driver's license is tamper proof.

Act 35 provided that DOJ may contract with the Department of Transportation (DOT) to pro-

duce and issue concealed weapons licenses. Neither DOT nor any employee of DOT may store, maintain, or access the information provided by DOJ for the production or issuance of concealed weapons licenses other than to the extent necessary to produce the licenses. The Department of Transportation currently utilizes a private vendor to produce and mail Wisconsin driver's licenses.

The Department of Justice does not utilize DOT to produce concealed weapon licenses since: (a) DOT's private vendor indicated that it would be unable to begin producing concealed weapon licenses on the timeline required by Act 35 (November 1, 2011); and (b) DOJ interpreted Act 35 to preclude it from being able to release applicant or licensee information to a third-party vendor, even if the information was released only to the extent necessary to produce and mail concealed licenses. Instead, DOJ utilizes a high-capacity license processing system to produce and issue concealed weapon licenses and certification cards.

**Ongoing Administration.** If a concealed weapons license is lost, a licensee no longer has possession of his or her license, or a license document is destroyed, unreadable, or unusable, a licensee may submit to DOJ a statement requesting a replacement concealed weapons license along with a \$12 replacement fee. The Department must issue a replacement license document within 14 days of receiving the statement and fee.

The Department of Justice is also required to design notice of expiration and license renewal forms. A concealed weapons license is generally valid for a period of five years from the date on which the license is issued unless the license is suspended or revoked. At least 90 days before the expiration date of a concealed weapons license, DOJ is required to mail to the licensee a notice of expiration form and a form for renewing the license. The Department is required to renew the license if, no later than 90 days after the expiration date of the license, the licensee does all of

the following: (a) submits the renewal application; (b) submits a statement reporting that the information provided in the renewal application is true and complete to the best of the applicant's knowledge and that the applicant is not disqualified from being licensed under the criteria outlined above; (c) pays a renewal fee in an amount, as determined by DOJ by rule, that is equal to the cost of renewing the license but does not exceed \$12 (currently the renewal cost is set at \$12); and (d) pays a background check fee equal to the fee charged for a firearms restrictions record search (currently \$10). The Department must also conduct a new background check of the licensee prior to renewing the license. As with the original application, DOJ must either issue the concealed weapons license and send the licensee his or her license by 1<sup>st</sup> class mail, or deny the renewal application within 21 days of receiving a renewal application, the required statement, and fees.

The Department must suspend a concealed weapons license if a licensee is charged with a misdemeanor or felony violation, and, as a condition of release, the individual is prohibited from possessing a dangerous weapon. The Department is required to revoke a concealed weapons license if the licensee is: (a) prohibited under federal law from possessing a firearm that has been transported in interstate or foreign commerce; (b) prohibited under state law from possessing a firearm; (c) on release prior to or after a criminal conviction, and as a condition of release the licensee is prohibited from possessing a dangerous weapon; (d) not a Wisconsin resident; or (e) deficient in providing the required proof of training.

The Department of Justice must promulgate rules providing for administrative review of any Department action denying a concealed weapons license application or suspending or revoking a concealed weapons license.

Notwithstanding this administrative review process, any affected applicant or licensee may appeal directly to the circuit court of the county

in which the individual resides, regardless of whether the individual has also sought administrative review of the Department action. This appeals process is discussed in the section entitled "Appeal of Licensure Denial, Suspension, or Revocation" of Chapter 1 of this paper.

By March 1 of each year, DOJ must submit a statistical report to the Legislature and to the Governor which indicates the number of concealed weapons licenses applied for, issued, denied, suspended, and revoked during the previous calendar year. For 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.

Appendix III is the report filed by DOJ to the Legislature and Governor regarding its administration of the concealed weapon licensure program in 2015. During 2015, DOJ received 45,549 concealed weapons applications and issued 40,452 concealed weapons licenses. The number of applications received during 2015 only includes applications that were received from January 1, 2015 to December 31, 2015, while the number of applications approved during 2015 also includes license applications that were received during 2014 but not processed until 2015.

During 2015, 4,729 applications were returned during the application review process. The two most common reasons for returned applications were incomplete applications (2,153 applications) and incorrect or missing payments (1,339 applications).

During 2015, 667 applications were denied during the background check phase. The two most common reasons for denial were that the applicant was previously convicted of a domestic abuse related misdemeanor (197 applicants) and the applicant was previously convicted of a felony (113 applicants).

In addition to the 667 denied applications described above, 1,267 applications were denied during the background check process because the application contained information that did not match information in the Department of Transportation (DOT) files. Specifically, the information in the application that did not match DOT files was the address (1,215 applications) and the name of the applicant (52 applications). These applications that were denied because of an information mismatch with DOT files were held for the applicant to make corrections and then moved through the application process at no additional cost to the applicant.

During 2015, DOJ revoked 922 concealed carry licenses. The two most common reasons for revocation were that the license holder was no longer a Wisconsin resident (410 licenses) and the license holder unlawfully used a controlled substance (186 licenses). Additionally, DOJ suspended 257 concealed carry licenses, all of which were suspended pursuant to a bail condition imposed by a court on a license holder charged with a criminal offence. The Department also cancelled 19 licenses after the applicant's check issued to cover the cost of the application fees bounced.

As of July 1, 2016, DOJ issued 313,083 unique concealed carry license numbers since the inception of the concealed carry program. Of these 313,083 licenses, 305,463 valid concealed carry licenses were in effect as of July 1, 2016.

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**Certification Cards for Former Federal  
Law Enforcement Officers and Out-Of-State  
Law Enforcement Officers**

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It is the responsibility of state law enforcement agencies to design and issue certification cards to any former law enforcement officers they previously employed who are eligible and

seeking to carry a concealed weapon. However, it is the responsibility of the Department of Justice to design and issue certification cards for eligible former federal law enforcement officers and former out-of-state law enforcement officers seeking to carry concealed firearms. These certification cards are valid for 12 months from the date on which it is determined that the officer meets the standards for qualification in firearms training for active law enforcement officers for the firearm for which the officer would be certified.

A certification card must contain on one side all of the following: (a) the full name, date of birth, and residence address of the person who holds the certification card; (b) a photograph of the certification card holder; (c) a physical description that includes sex, height, and eye color; and (d) the name of this state. Certification cards must also include a statement that the certification card does not confer any law enforcement authority on the certification card holder and does not make the certification card holder an employee or agent of the certifying agency or DOJ. Unlike concealed weapons licenses issued under Act 35, certification cards: (a) include the photograph of the certification card holder; and (b) do not have to be tamper proof in substantially the same way that a Wisconsin's driver's license is tamper proof.

Upon the request of a former federal or out-of-state law enforcement officer, and at the former officer's expense, DOJ may issue the officer a certification card to carry a concealed firearm provided that the Department first verifies all of the following: (a) the officer separated from service as a law enforcement officer with the law enforcement agency in good standing; (b) the officer served as a law enforcement officer for an aggregate of at least 10 years, or the officer separated from service due to a service-connected disability after completing any applicable probationary period; (c) the officer is not prohibited under federal law from possessing a firearm as indicated by a search of the DOJ TIME system

and the national criminal background check system; and (d) the officer, during the previous 12 months has been found by the state or by a certified firearms instructor (if such an instructor is qualified to conduct a firearms qualification test) to meet the standards for qualification in firearms training for active law enforcement officers to carry a firearm of the type for which the officer would be certified that are established by the state, or if the state does not establish standards, for former federal law enforcement officers by any law enforcement agency in the state. Before issuing a former federal or out-of-state law enforcement officer a certification card to carry a concealed weapon, DOJ must also verify that: (a) a qualified medical professional employed by the law enforcement agency from which the officer separated had not found the officer to be unqualified to be a law enforcement officer for reasons related to the officer's mental health; and (b) the officer had not entered into an agreement with the law enforcement agency from which he or she separated from service in which the officer acknowledged that he or she was not qualified to be a law enforcement officer for reasons related to his or her mental health.

The Department of Justice may charge a fee to verify eligibility for a certification card, for the issuance of a certification card, or for the renewal of a certification card. The fee may not exceed the costs the Department incurs to carry out these activities. Beginning on June 1, 2013, the Department, by rule, set the following fees regarding certification cards: (a) a \$12 certification card application fee; (b) a \$13 background check fee for any background check conducted by the DOJ with regard to certification cards; and (c) a \$12 renewal or replacement fee. The Department must annually review the cost of issuing certification cards and, if the cost of issuing a certification card is less than the current application fee, the Department must reduce the application fee accordingly.

In 2015-16, DOJ issued 26 certification cards to former federal and out-of-state law enforce-

ment officers.

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### **Concealed Weapons Licensee Database**

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Every concealed weapons license is required to contain the following information: (a) the full name, date of birth, and residence address of the licensee; (b) a physical description of the licensee, including sex, height, and eye color; (c) the date on which the license was issued; (d) the date on which the license expires; (e) the name of the state; and (f) a unique identification number for each licensee. The Department is required to maintain a computer database containing this information for all individuals issued a concealed weapons license, as well as a listing of all former federal and out of state law enforcement officers issued certification cards to carry a concealed weapon. Neither DOJ nor any employee of the Department 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.

The Department is required to provide this information to law enforcement officers for the following purposes: (a) to confirm that a license or certification card produced by an individual at the request of a law enforcement officer is valid; (b) to confirm that an individual holds a valid license or certification card if an officer finds the individual carrying a concealed weapon but the individual is not carrying his or her license document or certification card; and (c) if the requesting law enforcement agency is a Wisconsin law enforcement agency, to investigate whether an individual submitted an intentionally false statement with an application or renewal application for a concealed weapons license. Additionally, the information may be provided to a law enforcement officer if the officer is investigating whether a licensee complied with state law re-

quirements following the receipt of a notice of suspension or revocation of his or her concealed weapons license. A law enforcement officer in a state other than Wisconsin may request and be provided this information to: (a) confirm that a license or certification card produced by an individual at the request of a law enforcement officer is valid; and (b) confirm that an individual holds a valid license or certification card if an officer finds the individual carrying a concealed weapon but the individual is not carrying his or her license document or certification card.

To facilitate providing this information to law enforcement officers in the field, the Department has provided access to the concealed carry database through the Wisconsin TIME system. The TIME system, administered by DOJ, provides law enforcement agencies across the state access to a variety of law enforcement related databases, including state and national criminal history information, and driver and vehicle registration files. As of July 1, 2016, the TIME system consists of 10,619 workstations located in 690 law enforcement or criminal justice agencies in Wisconsin. Approximately 3,684 of these terminals are mobile units that provide information directly to the patrol officer. In addition to these physical workstations, limited, read-only access to the TIME system may also be accessed by law enforcement officers from a standard device with Internet access using an Internet browser.

The Circuit Court Automation Program (CCAP) system is used by the circuit court system to track civil, criminal and delinquency court actions. The CCAP system is a state-funded program under the Supreme Court's Director of State Courts Office. Under Act 35, CCAP (or the clerk or register in probate if the information is not contained in or cannot be transmitted by CCAP) is required to promptly notify DOJ of the name of any individual with respect to whom any of the following occurred and the specific reason for the notification: (a) the individual is convicted of a felony or any other crime that would disqualify

the individual from possessing a concealed weapons license; (b) the individual is found to be incompetent; (c) the individual is found not guilty of any crime by reason of mental disease or defect; (d) the individual is involuntarily committed for treatment; (e) the individual is subject to a domestic abuse or child abuse injunction; (f) the individual is ordered to not possess a firearm as a part of a harassment injunction; (g) the individual is charged with a misdemeanor or felony violation, and as a condition of release the individual is prohibited from possessing a dangerous weapon; (h) a Wisconsin court has prohibited the individual from possessing a firearm;

or (i) the individual is on release prior to or after a criminal conviction, and as a condition of release the individual is prohibited from possessing a dangerous weapon. Upon receiving this information, the Department must immediately determine if the individual who is the subject of the notice is a licensee. If the individual is a licensee and is no longer eligible to carry a concealed weapons license, DOJ must seek revocation or suspension of the license. In order to carry out these provisions, the Department has implemented an interface between CCAP and the concealed weapons database.

*HANDGUN PURCHASER RECORD CHECK PROGRAM*

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**Statutory Authorization**

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Under current federal law, states may individually determine whether they will process background checks on purchasers prior to the transfer of handguns and long guns. States processing these background checks must ensure that the guns are not transferred in violation of federal or state law. If a state does not process background checks, either in whole or in part, the FBI processes those background checks not undertaken by the state.

In Wisconsin, the Firearms Unit within DOJ's Crime Information Bureau processes background checks on purchasers of handguns. The FBI continues to be responsible for background checks on purchasers of long guns in Wisconsin. States which process background checks are also authorized to extend their background checks beyond the requirements under federal law. Wisconsin handgun background checks include a review of databases not routinely searched by the FBI as a part of a federal background search such as CCAP and the DOJ database of juveniles found adjudicated delinquent for an offense that would have been a felony if committed by an adult.

Under s. 175.35 of the statutes, when a firearms dealer sells a handgun in Wisconsin, the dealer may not transfer possession of that handgun until all of the following events occur: (a) the dealer has inspected photographic identification from the purchaser; (b) the purchaser has completed a notification form with the purchaser's name, date of birth, gender, race social security

number, and any other identifying information necessary for DOJ to perform an accurate record search; (c) the dealer has submitted the information to DOJ and has requested a firearms restrictions record search; and (d) DOJ has provided the firearms dealer with an approval number notifying the dealer that the firearms restrictions record search has been completed and that the transfer would not be a violation of state or federal law.

Prior to the enactment of 2015 Act 22, after selling a firearm to a purchaser, a firearms dealer was required to allow 48 hours to elapse before transferring the possession of a firearm to the purchaser. Effective June 25, 2015, Act 22 eliminated this 48 hour waiting period.

After a firearms dealer requests a firearms restrictions record search on a potential purchaser, DOJ must notify the dealer of the results of the background check as soon after receiving the purchaser's pertinent information as practicable. If the search indicates that the purchaser is not prohibited from possessing a firearm under state or federal law, the Department must provide the firearms dealer with a unique approval number. If DOJ's search indicates that the purchaser is prohibited from possessing a firearm, DOJ must provide the firearms dealer with a unique nonapproval number. The Department may not disclose to the firearms dealer the reason the purchaser is prohibited from possessing a firearm. Finally, if the search indicates that it is unclear whether the purchaser is prohibited from possessing a firearm and DOJ needs more time to make the determination, DOJ must make every reasonable effort to determine whether the person is prohibited from possessing a firearm and notify the firearms deal-

er of the results as soon as practicable but no later than five working days after the search was requested. If DOJ is unable to make a final determination within five working days, the dealer may transfer the handgun to the purchaser. Appendix I identifies the state and federal disqualifiers for possession of a handgun.

A \$10 fee is assessed on the dealer (who may pass the charge on to the purchaser) for each background check. This fee was reduced from \$13 to \$10 pursuant to 2013 Act 20. Fee revenues are remitted to DOJ and are intended to fund the cost of operating the record check program.

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### Program Administration

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The Bureau's handgun purchaser record check program operates a handgun hotline between the hours of 9:00 a.m. and 9:00 p.m. on weekdays, and between the hours of 9:00 a.m. and 5:00 p.m. on weekends, so as to be available to receive telephone calls during regular retail hours. The handgun hotline receives telephone requests from handgun dealers. The Bureau also maintains an online application where the handgun dealers can submit a request online. The information provided by the dealers enables Bureau staff to perform the required background checks on handgun purchases.

As a part of the background check approval process, handgun dealers that initiate the request using the toll free telephone number must submit a duplicate copy of the completed notification form to the Bureau. If the information on the written notification forms confirms the information that was provided to the Bureau during the initial telephone call, the background check can normally be completed, based on information that was provided in the initial telephone contact

to the Bureau. If the data on the written notification forms contains new information, additional limited or more involved follow-up review may be required before the purchase can be approved. Where an initial telephone inquiry or a subsequent follow-up review discloses a disqualification that would bar handgun ownership, the purchase request is denied.

The handgun hotline received 155,154 background check requests from dealers in 2015-16. Of these 155,154 requests, 68,165 originated from a phone request, and 86,989 originated from an electronic request. During this same time period, DOJ completed 155,050 background checks. Table 1 indicates the disposition of these 155,050 background checks during 2015-16. [Due to the timing of certain requests, the total of completed requests is less than the total number of background check requests received by the firearms unit.]

**Table 1: Disposition of Handgun Hotline Background Check (2015-16)**

	Calls
Instant Approvals	15,556
Follow-ups approved	138,063
Denials	<u>1,431</u>
Total	155,050

Under 2013 Act 20, the budget of the handgun purchaser record check program was combined with that of the concealed weapons licensure program into one program revenue appropriation (s. 20.455(2)(gr)). Information regarding prior and current funding of the handgun purchaser record check program is provided in Chapter 6 of this informational paper, "Funding for the Concealed Weapons Licensure Program and the Handgun Purchaser Record Check Program".

*FUNDING FOR THE CONCEALED WEAPONS LICENSURE  
PROGRAM AND THE HANDGUN PURCHASER RECORD CHECK PROGRAM*

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**Initial Funding for the Concealed Weapons  
Licensure and Certification Program**

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Under 2011 Act 35, the Legislature created two continuing program revenue appropriations to fund the issuance of licenses and certification cards to carry concealed weapons, respectively. The funding for these appropriations were supported by the fees associated with these programs.

The following initial resources were provided to implement the concealed weapons program: (a) \$174,400 in 2011-12 to fund 10.0 limited-term employee (LTE) positions for six months; (b) \$62,300 and 1.0 permanent position during each year of the 2011-13 biennium; and (c) \$77,100 during 2011-12 for supplies and services costs.

On October 6, 2011, the Joint Committee on Finance provided \$975,600 in 2011-12, to acquire and pay costs associated with a high-capacity license processing system. On December 14, 2011, the Committee provided \$647,900 in 2011-12, and \$950,100 in 2012-13, to provide additional staffing resources for the concealed weapons licensing program. This provided funding for 8.5 permanent positions to supplement the 1.0 permanent position provided under Act 35, as well as 6.0 project positions through June 30, 2013, and LTE positions and overtime. On, July 3, 2012, the Joint Committee on Finance provided \$788,600 in 2012-13, to provide the first year of funding for 8.0 two-year project positions. Finally, on July 2, 2013, the Finance Committee

approved an increased expenditure authority of \$382,400 for 2013-2014 and \$139,600 for 2014-2015. This funded the extension of 5.0 FTE license permit program associate positions through June 30, 2014, the extension of 1.0 FTE information systems specialist until June 30, 2015, and the creation of 1.0 FTE operation program associates. All of these requests were funded with program revenue under DOJ's annual background check for licenses to carry concealed weapons appropriation.

During the first fiscal year of the concealed weapons licensure program in 2011-12, DOJ collected \$5,797,800 in fee revenue and expended \$1,734,100. As a result the concealed weapons program concluded 2011-12 with a balance of \$4,063,700. During the 2012-13 fiscal year, the concealed carry program generated \$3,766,200 of revenue, expended \$1,455,100, and ended 2012-13 with a balance of \$6,374,800.

In 2011-12, \$75 in fee revenue was collected for issuing certification cards to former federal law enforcement officers. In 2012-13, \$100 in fee revenue was collected for issuing certification cards to former federal law enforcement officers.

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**Funding for the Handgun Purchaser Record  
Check Program Prior to Fiscal Year 2012-13**

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From its inception under 1991 Act 11 through state fiscal year 2012-2013, the handgun purchaser record check program was funded by a separate continuing program revenue appropriation. This appropriation was supported by the fee

charged to firearm dealers for record checks of potential firearm purchasers. From 1991-92 through 2010-11, the handgun purchaser record check appropriation ended each state fiscal year in deficit. In response, the record check fee was increased from \$8 to \$13 under 2009 Act 28.

Recently, the program has seen a substantial increase in handgun purchaser record checks associated with increased handgun sales. The appropriation began the 2011-12 fiscal year with a deficit of \$613,700. However, during 2011-12, the program generated \$1,560,900 of revenue from handgun purchaser record check fees, and expended only \$492,900. As a result, the program concluded 2011-12 with a positive balance of \$454,300. During 2012-13, the program generated \$1,953,100 of revenue and expended only \$475,900. Consequently, the appropriation ended 2012-2013 with a balance of \$1,931,500.

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### Current Funding and Personnel

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Under 2013 Act 20, funding for the concealed carry licensure program, the concealed carry certification program for former law enforcement officers, and the handgun purchaser record check program were combined into one continuing program revenue appropriation (s. 20.455(2)(gr)). The funding for this appropriation is supported by the fees associated with these programs, which include: (a) a \$10 fee charged to firearm dealers for record checks on potential firearm purchasers; (b) a \$12 fee charged to former federal and out of state law enforcement officers who wish to be issued or renew a certification card to allow them to carry a concealed weapon; (c) a \$30 application fee charged to members of the general public who wish to be issued a license to carry a concealed weapon; (d) a \$10 background check fee charged to members of the general public who wish to be issued a license to carry a concealed weapon; (e) a \$12 fee charged to concealed carry license holders who need to

replace their lost or destroyed license; (f) a \$12 fee charged to concealed carry license holders who seek to renew their license; and (g) a \$10 background check fee charged to concealed carry license holders who seek to renew their license. The Department is authorized to utilize the revenue generated from these fees to administer services relating to: (a) background checks on individuals purchasing handguns; (b) certification cards for former federal and out of state law enforcement officers seeking to carry concealed; and (c) licensure to carry concealed for the general public.

Table 2 identifies the condition of the concealed carry and handgun purchaser record check appropriation from 2013-14 through 2015-16. In 2016-17, the Department estimates that fees associated with the two programs will generate \$4,710,000 (\$3,510,000 from the concealed carry program and \$1,200,000 from the handgun purchaser record check program). Estimated revenues are expected to increase in 2016-17 since it will be the first year in which individuals may need to renew their concealed carry licenses, which expire after five years. The Department estimates that it will expend approximately \$5,000,000 from the appropriation in 2016-17 to support the two programs.

**Table 2: Fund Condition of the Concealed Carry and Handgun Purchaser Record Check Appropriation [20.455(2)(gr)], 2013-14 thru 2015-16**

	2013-14	2014-15	2015-16
Opening Balance	\$1,931,500	\$6,022,000	\$3,560,300
Revenue*	8,983,000	2,497,500	3,415,200
Expenditures**	<u>4,892,500</u>	<u>4,959,200</u>	<u>5,871,500</u>
Ending Balance	\$6,022,000	\$3,560,300	\$1,104,000

\*Revenue in 2013-14 is comprised of \$2,608,000 generated from the concealed carry and handgun hotline programs, as well as \$6,375,000 from funds transferred from the previously separate concealed weapons licensure program appropriation and concealed weapons certification card appropriation.

\*\*Expenditures in 2013-14 include a lapse of \$2,858,900 to the general fund, as required under 2013 Act 20. In addition, 2014-15 expenditures include \$450,900 in funds lapsed to the general fund and 2015-16 expenditures include \$200,000 in funds lapsed to the general fund.

As workload associated with the concealed

carry licensure program and handgun purchaser record check program has fluctuated in recent years, the Joint Committee on Finance, acting under s. 16.515/505(2) of the statutes, has continued to extend existing project positions within DOJ's Firearms Unit, and create new positions for the Unit, based on available cash balances within the programs. As of July 1, 2016, the appropriation supporting the concealed carry and

handgun purchaser record check programs supported 29.5 full-time equivalent positions, including: 16.0 permanent license and permit program associates (LPPA); 8.0 project LPPAs; 2.0 justice supervisors; 1.0 office associate; 1.0 information systems development consultant; 1.0 information systems business consultant; and 0.5 assistant attorney general.

## APPENDIX I

### Individuals Prohibited From Possessing a Firearm under State and Federal Law

Generally, both the United States Constitution and the Wisconsin Constitution provide individuals the right to bear arms. The Second Amendment to the U.S. Constitution provides, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Article I Section 25 of the Wisconsin Constitution provides that, "The people have the right to keep and bear arms for security, defense, hunting, recreation or any other lawful purpose."

Notwithstanding these constitutional provisions, both the U.S. Supreme Court and the Wisconsin Supreme Court have ruled that the right to bear arms is not unfettered. Rather, the courts have held that the state and federal Legislature may, in seeking to promote public safety, prohibit certain individuals from possessing a firearm (such as individuals who have been convicted of a felony).

The following individuals are prohibited from possessing a firearm under state and federal law.

#### ***Wisconsin Statute (s. 941.29 and s. 948.60(2)(b))***

- Subject to certain exceptions, individuals under the age of 18.
- Those convicted of a felony in Wisconsin.
- Those convicted of a crime elsewhere that would be a felony if committed in Wisconsin.
- Those adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in Wisconsin would be a

felony.

- Those found not guilty of a felony in Wisconsin by reason of mental disease or defect.
- Those found not guilty or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect, or illness.
- Those committed for treatment of a mental disorder, developmental disability, mental illness, alcoholism, or other drug abuse and ordered by a court not to possess a firearm.
- Those ordered by the court not to possess a firearm due to federal law that prohibits individuals who have been adjudicated as a mental defective or have been committed to a mental institution.
- Those prohibited from possessing a firearm as a result of a court or tribal injunction issued as a result of allegations or findings of domestic or child abuse.
- Those prohibited from possessing a firearm by the court as a result of findings that the individual may use a firearm to cause physical harm to another or to endanger public safety.

#### ***Federal Regulations (18 U.S. Code s. 922(g) and (x))***

- Those who are a juvenile. Federal law defines a juvenile as a person who has not attained his or her 18th birthday. [Note that this prohibition only applies to handguns, and not long guns.]
- Those who have been convicted in any

court of a crime punishable by imprisonment for a term exceeding one year.

- Those who are a fugitive from justice.
- Those who are an unlawful user of or addicted to any controlled substance. [Federal regulations define an "addict" as any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his or her addiction. A "controlled substance" includes any schedule I, II, III, IV, or V drug or other substance, or immediate precursor, under the federal Controlled Substances Act. A controlled substance does not include tobacco, distilled spirits, wine, or malt beverages.]
- Those who have been adjudicated as a mental defective or who has been committed to a mental institution.
- Subject to certain exceptions, those who are an alien and either: (a) are illegally or unlawfully in the United States; or (b) have been admitted to the United States under a nonimmigrant visa.

- Those who have been discharged from the Armed Forces under dishonorable conditions.

- Those who have been a citizen of the United States and have renounced their citizenship.

- Those who are subject to a court order that: (a) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; (b) restrains such person from harassing, stalking, or threatening an intimate partner, or the child of such intimate partner, or restrains the person from engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (c) includes a finding that the person represents a credible threat to the physical safety of an intimate partner or child, or prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

- Those who have been convicted in any court of a misdemeanor crime of domestic violence.

## APPENDIX II

### States and Territories Conducting Concealed Carry Background Checks That Are Recognized in Wisconsin

Alabama	Missouri <sup>3</sup>
Alaska <sup>1</sup>	Montana
Arizona	Nebraska
Arkansas	Nevada <sup>4</sup>
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Georgia	North Dakota
Hawaii	Ohio <sup>5</sup>
Idaho	Pennsylvania
Illinois	South Carolina
Indiana	South Dakota <sup>6</sup>
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Virginia <sup>7</sup>
Maryland	Washington
Massachusetts <sup>2</sup>	West Virginia <sup>8</sup>
Michigan	Wyoming
Minnesota	Puerto Rico
Mississippi	U.S. Virgin Islands

1. Wisconsin only recognizes Alaska licenses issued or renewed on or after January 14, 2014.

2. Wisconsin only recognizes Class "A" Massachusetts licenses.

3. Wisconsin only recognizes Missouri licenses issued or renewed on or after August, 28, 2013. This does not include any provisional licenses issued by the state of Missouri.

4. Wisconsin only recognizes Nevada licenses issued or renewed on or after July 1, 2011.

5. Wisconsin only recognizes Ohio licenses issued or renewed on or after March 23, 2015.

6. Wisconsin only recognizes "enhanced" and "gold" South Dakota concealed carry permits.

7. Wisconsin only recognizes Virginia non-resident licenses. A Virginia non-resident license states, "non-resident" on the license. A Virginia "resident" license is not recognized in Wisconsin.

8. Wisconsin only recognizes West Virginia licenses issued or renewed on after June 8, 2012.

## APPENDIX III

### Conceal Weapon Licenses 2015 Statistical Report



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

BRAD D. SCHIMMEL  
ATTORNEY GENERAL

Andrew C. Cook  
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February 18, 2016

Governor Scott Walker  
115 East, State Capitol  
Madison, WI 53702

Jeff Renk  
Senate Chief Clerk  
PO Box 7882  
Madison, WI 53707

Patrick E. Fuller  
Assembly Chief Clerk  
17 West Main Street, Room 401  
Madison, WI 53703

Governor Walker, Chief Clerk Renk, Chief Clerk Fuller:

It is my pleasure to submit the annual concealed carry statistical report, pursuant to Sec. 175.60 (19) of Wisconsin State Statutes. As you will see from the report, the citizens of Wisconsin continue to enthusiastically embrace the right to carry concealed weapons as provided by 2011 Act 35. There was a steady increase in demand for licenses through the first eleven months of 2015 and a significant increase in the last month with the Department receiving 5,991 applications in December alone. During 2015, the Department of Justice denied 667 applications for disqualifiers other than a valid ID or age restriction, and revoked 512 licenses for reasons other than the license holder is no longer a Wisconsin resident. As of December 31, 2015, the Department of Justice issued concealed carry license number 282,276 to a Wisconsin resident. We are currently processing applications at a higher rate than at any time since the initial application period in 2011 and 2012, and have requested additional resources to handle the processing of applications in this self-funded program within the statutory limitations. These resources will be crucial for the Department of Justice to meet its statutory obligations.

The staff of the Firearms Unit in the Wisconsin Department of Justice has worked diligently to ensure a good customer experience for applicants, and strives to process applications received as promptly as possible, while ensuring that licenses are only issued to those that meet the requirements set forth in both state and federal law. Beginning in July of 2016, the Department of Justice will be sending out renewal notices as we approach the 5<sup>th</sup> year of Concealed and Carry in Wisconsin. In an effort to enhance the user experience for license holders, our team will implement an online functionality to facilitate name changes, addresses changes, and data entry of new license applications and renewal applications in 2016.

Should you have any questions, please contact Brian O'Keefe, the Administrator for the Division of Law Enforcement Services. Brian can be reached via e-mail at [okeefebr@doj.state.wi.us](mailto:okeefebr@doj.state.wi.us) or by phone at (608) 266-7052.

Very truly yours,

BRAD D. SCHIMMEL  
Attorney General

BDS:bro

**Department of Justice Concealed Carry Annual Report – 175.60(19)**  
**Date range: January 1 – December 31, 2015**



**Number of applications received and data entered:** **45,549**  
 (Includes only applications received in 2015)

**Number of licenses approved and issued:** **40,452**  
 (Includes applications received in 2014, but not processed and approved until 2015)

**Number of applications returned during application review process:** **4,729**  
 (These applications are returned in their entirety to the applicant, along with any payment and instructions on how to correct the deficiency.)

2,153	Incomplete application (no signatures, missing data, missing yes/no answers)
1,339	Incorrect or missing payment
1,221	Insufficient or no training documentation included in the application
16	Missing affirmation of status on out-of-state license used for training requirement
<b>4,729</b>	<b>Total</b>

**Number of applications denied during the background check process:** **667**

197	Misdemeanor conviction - domestic abuse related (Federal disqualifier)
113	Felony conviction
89	Determined to not be a legal resident of Wisconsin
59	Juvenile adjudication of delinquency for a felony offense after April 21, 1994
59	Unlawful use of a controlled substance (Federal disqualifier)
55	Fugitive from justice (Federal disqualifier)
29	Did not possess a valid driver's license or identification card
26	Court order (As a condition of bail or probation)
11	Illegal alien (Federal disqualifier)
7	Applicant was not 21 years of age
6	Domestic abuse injunction
6	Involuntary commitment
3	Misdemeanor conviction with over a 2 year sentence (Federal disqualifier)
3	Harassment injunction
3	Not guilty by reason of mental disease or defect
1	Check refused by bank (NSF)
<b>667</b>	<b>Total</b>

**Department of Justice Concealed Carry Annual Report – 175.60(19)**  
**Date range: January 1 – December 31, 2015**



**Number of applications denied during the background check process for a Department of Transportation information mismatch: 1,267**  
 (The DOT mismatches were held for the applicant to make corrections and then moved through the application process with no additional fee required.)

1,215	Address does not match the address in the Department of Transportation files
52	Name does not match the name in the Department of Transportation files
<b>1,267</b>	<b>Total</b>

**Number of licenses revoked: 922**

410	License holder is no longer a Wisconsin resident
186	Unlawful use of a controlled substance (Federal disqualifier)
104	Felony conviction
61	Domestic abuse injunction
52	Misdemeanor conviction - domestic abuse related (Federal disqualifier)
37	Court order (As a condition of probation)
26	Involuntary commitment
13	Fugitive from justice (Federal disqualifier)
10	Harassment injunction
7	Not guilty by mental defect
6	Guardianship imposed by the court
4	Juvenile adjudication of delinquency for a felony offense after April 21, 1994
3	Misdemeanor conviction with over a 2 year sentence (Federal disqualifier)
2	Illegal alien (Federal disqualifier)
1	Child abuse injunction
<b>922</b>	<b>Total</b>

**Number of licenses suspended: 257**

257	Bond condition imposed by a court under 969.01, 969.02(3)(c) or 969.03(1)(c)
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**Number of licenses cancelled: 19**

19	Non-sufficient funds check
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