

**2003 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-SB214)**

Received: 10/30/2003

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: Adrienne

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - guns and weapons

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Concealed weapons

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**Instructions:**

Codify Hamdan

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 10/30/2003	jdye 10/31/2003		_____			
/1			rschluet 10/31/2003	_____	sbasford 10/31/2003	sbasford 10/31/2003	

FE Sent For:

**<END>**

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1?	mdsida	1/10/31 JLD					
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FE Sent For:

10313

<END>

JF

D-Note

Adrienne:

Please note the ~~old~~ <sup>new provision</sup> change in s. 941.23(2)(b)3.

md

D. Note

2003 - 2004 LEGISLATURE

0243  
LRBs 02/18/1  
MGD/jld/pg

Stays

due MON  
11/3

**ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2003 ASSEMBLY BILL 444**

Regen

1 AN ACT *to renumber and amend* 941.23; and *to create* 941.23 (1) and 941.23  
2 (2) of the statutes; **relating to:** carrying or going armed with a concealed  
3 weapon.

with it ✓

***Analysis by the Legislative Reference Bureau***

Under current law, no person other than a peace officer may go armed with a concealed and dangerous weapon. The "going armed with" language applies to, among others, cases in which a person is carrying a concealed weapon but has not gone and is not going anywhere, and cases in which a weapon is readily accessible to — but not physically carried by — a person in a car. A person who violates the prohibition on going armed with a concealed and dangerous weapon may be fined not more than \$10,000 or imprisoned for not more than nine months or both. But under *State v. Hamdan*, 2003 WI 113, \_\_ Wis. 2d \_\_, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when: 1) the person's interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. The *Hamdan* court also indicated that the constitutional right to keep and bear arms for security must permit a person to carry a concealed weapon under certain circumstances in his or her own home.

This substitute amendment permits a person to go armed with a concealed and dangerous weapon in his or her own home or place of business if: 1) the person's

interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. This authorization does not apply if the person is prohibited under federal or state law from possessing a firearm (prohibitions that apply if, for example, the person has been convicted of a misdemeanor crime of domestic violence or a felony; the person unlawfully uses a controlled substance; the person has been committed to a mental health facility; or the person is subject to a stalking, harassment, or domestic abuse restraining order or a harassment, domestic abuse, or child abuse injunction).

INS A ✓

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

1

SECTION 1. 941.23<sup>X</sup> of the statutes is renumbered 941.23 (1)<sup>l</sup> (intro.) and

2 amended to read:

3 **941.23 Carrying concealed weapon.** (intro.) Any person ~~except a peace~~  
4 ~~officer, other than one of the following,~~ who goes armed with a concealed and  
5 dangerous weapon is guilty of a Class A misdemeanor.;

6 SECTION 2. 941.23 (1)<sup>X</sup> of the statutes is created to read:

7 941.23 (1) A peace officer.

8 SECTION 3. 941.23 (2)<sup>X</sup> of the statutes is created to read:

9 941.23 (2) (a) An individual who goes armed with a concealed and dangerous  
10 weapon in his or her own dwelling or place of business if all of the following apply:

11 1. The individual's interest in going armed with the weapon substantially  
12 outweighs the state's interest in enforcing ~~sub. 2.01~~ this section ✓

13 2. The individual has no other reasonable means to keep and handle the  
14 weapon.

15 3. The person is not motivated by an unlawful purpose in concealing the  
16 weapon.

17 (b) Paragraph (a) does not apply to an individual if any of the following applies:

1           1. The individual is prohibited under federal law from possessing a firearm that  
2           has been transported in interstate or foreign commerce.

3           2. The individual is prohibited from possessing a firearm under s. 941.29.

4

(END)

NS 3/3

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0243/1  
MGD:.....

1 analysis INSERT A

2  or if the person,  in an unrelated criminal case, has been prohibited from  
3 possessing a dangerous weapon as a condition of being released while the case is  
4 pending

5 INSERT 3/3

6 3. The person is prohibited from possessing a dangerous weapon under s.  
7 969.01 (2),  969.02 (3) (c),  or 969.03 (1) (c).