

2011 DRAFTING REQUEST

Bill

Received: **02/06/2012**

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB: **-4234**

For: **Van Wanggaard (608) 266-1832**

By/Representing: **Craig Summerfield**

May Contact:

Drafter: **chanaman**

Subject: **Criminal Law - guns and weapons**
Criminal Law - law enforcement

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Wanggaard@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Carrying concealed weapons by law enforcement, former law enforcement, and off-duty law enforcement; school zones, private property

Instructions:

No specific instructions given

Drafting History:

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/?	chanaman 02/07/2012	kfollett 02/08/2012		_____			S&L
/1	chanaman 02/10/2012	kfollett 02/10/2012	jmurphy 02/09/2012	_____	sbasford 02/09/2012		S&L
/2	chanaman 03/02/2012	mduchek 03/02/2012	jmurphy 02/10/2012	_____	ggodwin 02/10/2012		S&L
/3	chanaman	kfollett	jmurphy	_____	mbarman		S&L

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/4	chanaman 03/05/2012	kfollett 03/05/2012	jmurphy 03/02/2012	_____ _____	lparisi 03/02/2012		
/5			lparisi 03/05/2012	_____ _____	lparisi 03/05/2012	mbarman 03/05/2012	

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/?	chanaman	1/15/12 2/8	jm 2/8	J a/9 jm/9			

FE Sent For:

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Hanaman, Cathlene

From: Summerfield, Craig
Sent: Thursday, February 02, 2012 4:04 PM
To: Hanaman, Cathlene
Cc: Bender-Olson, Katherine
Subject: Bill draft request - CCW by Off-Duty/Retired Cops

Attachments: CCW by Retired and Off-Duty Cops.pdf

Hi Cathlene,

Senator Wanggaard would like to request a bill draft in relation to concealed carry by off-duty/retired law enforcement. I am contacting you because you are the drafter listed for AB-299.

After several correspondences with Katie Bender-Olsen at Leg. Council, Sen. Wanggaard was surprised to find-out that off-duty/retired cops are not permitted to carry on posted "no weapons" properties (created under the state's Concealed Carry Law). In effect, since "no weapons" properties are a new provision under the law, off-duty/retired cops are no longer permitted to carry in places they were permitted to carry previously.

The bill would have two main elements:

- 1) Specify that off-duty law enforcement is exempt from the requirements of a "no carry" sign on private property (as laid-out in Act 35). In addition, specify that retired cops under LEOSA are also exempt.
- 2) Exempt off-duty/retired law enforcement from the prohibition on carrying on school grounds or within 1,000 feet of school grounds (similar to 2011 Assembly Bill 299). However, Van is not interested in including the section relating to domestic abuse charges.

For your reference, I have included the Leg. Council memo we received in January on this issue.

Thanks for your assistance. Also, please let me know if I should contact a different drafter.

Best,

Craig Summerfield

Committee Clerk - Labor, Public Safety & Urban Affairs
Office of Senator Van H. Wanggaard
Phone: (608) 266-1832



CCW by Retired
and Off-Duty Co...



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR VAN H. WANGGAARD
FROM: ^{KBO} Katie Bender-Olson, Staff Attorney
RE: Concealed Carry of Firearms by Off-Duty and Retired Law Enforcement Officers
DATE: January 6, 2012

This memorandum responds to your request for information regarding 2011 Wisconsin Act 35, commonly referred to as "the Concealed Carry Act," and the application of trespass provisions allowing individuals to post private property to prevent the carrying of firearms by retired and off-duty law enforcement officers. The memorandum also addresses your inquiry regarding statutory provisions that address the carrying of firearms by off-duty and on-duty officers. Finally, as requested, the memorandum cites examples of statutory language from other states regarding the carrying of firearms by retired and off-duty officers.

CARRYING OF FIREARMS ON POSTED PROPERTY BY RETIRED AND OFF-DUTY OFFICERS

Act 35 generally allows an individual to prohibit or restrict the carrying of firearms on his or her property by posting a sign. A person who disregards the property owner's sign and carries a firearm on the property commits a trespass and may be subject to a Class B forfeiture. [s. 943.13 (1m), Stats.]

The trespass provisions do not contain an exception for either retired or off-duty law enforcement officers. Therefore, retired and off-duty officers in Wisconsin must comply with any postings prohibiting the carrying of firearms on the property. A retired or off-duty officer who carries onto a posted property may face the same penalties for trespass as any other individual who carries onto the property.

There is a federal law, known as the "Law Enforcement Officers' Safety Act" (LEOSA), that allows qualified, active law enforcement officers, and qualified retired officers to carry concealed firearms in any jurisdiction in the United States. However, LEOSA does *not* permit these officers to carry concealed firearms on posted property if state law allows owners to restrict the carrying of concealed firearms on their property, or if state law prohibits or restricts firearms on any state or local government property, installation, building, base, or park. [18 U.S.C. ss. 926B and 926C.] As previously noted, the Wisconsin trespass statute allows private persons or entities to prohibit possession

of firearms on their property. Therefore, LEOSA does not exempt retired or off-duty officers from complying with postings prohibiting the carrying of firearms and does not exempt these officers from penalties associated with failure to abide by such postings.

CARRYING OF FIREARMS BY OFF-DUTY OFFICERS AND ON-DUTY OFFICERS

Qualified on-duty and off-duty law enforcement officers may both carry concealed firearms without obtaining a Wisconsin concealed carry permit. Federal law authorizes qualified officers to carry concealed firearms in any location that is not posted and is not a prohibited government property under state law. The federal language in LEOSA allowing law enforcement officers to carry concealed firearms does not distinguish between on-duty and off-duty officers. [18 U.S.C. s. 926B (c).] Therefore, both qualified on-duty and off-duty officers may carry a concealed firearm in these locations without obtaining a Wisconsin permit.

State law also allows on-duty and off-duty officers to carry concealed weapons in any location that is not posted or explicitly prohibited by state law without obtaining a Wisconsin permit. This is because the state statute which prohibits the carrying of concealed weapons includes an exception for "peace officers." [s. 941.23 (2) (a), Stats.] Similar to the federal law, the state statutory language does not distinguish between on-duty and off-duty officers. Therefore, both on-duty and off-duty officers may carry concealed weapons in any location that is not posted or explicitly prohibited under state law without penalty and without a Wisconsin permit.

The Wisconsin statutes do not permit an off-duty officer to carry a concealed firearm in all locations in which an on-duty officer may carry a concealed firearm, however. For instance, there appear to be differences between an on-duty officer's ability to carry onto school property and onto posted property and an off-duty officer's ability to carry into these locations.

First, it appears that only on-duty officers may carry onto school property under federal and state law. Both federal and state law generally prohibit any individual from possessing a firearm in a school zone. [18 U.S.C. 922 (q) (2) (A) and s. 948.605 (2), Stats.] However, both federal and state law contain an exception for a law enforcement officer "acting in his or her official capacity." [18 U.S.C. 922 (q) (2) (B) (vi) and s. 948.605 (2) (b) 1m., Stats.] Presumably, an officer only acts in his or her "official capacity" while on-duty. If the exception for officers was meant to apply at all times, the language could be expected to refer to a "law enforcement officer," rather than a "law enforcement officer acting in his or her official capacity." Consequently, it appears that an officer who is on-duty and acting in his or her "official capacity" may carry in a school zone, but an off-duty officer may not.

Second, it appears that only on-duty officers may carry onto posted property. Act 35 amended the Wisconsin trespass statute, s. 943.13, Stats., to specify the manner in which owners may prohibit a person from entering onto their property while carrying a firearm. The amended language does not alter any pre-existing ability of on-duty officers to exercise the government's police power while carrying firearms. However, this ability does not necessarily apply to off-duty officers who are not exercising the government's police power. The amended trespass statute permits owners to post their property to prohibit individuals from carrying firearms, but does not contain an exception for law enforcement officers. Therefore, an on-duty officer may carry onto posted property, while it appears that an off-duty officer may not.

EXAMPLE STATUTORY LANGUAGE FROM OTHER STATES

State statutes differ in how they license individuals to carry concealed firearms, the locations in which they prohibit the carrying of firearms, and how they address the carrying of firearms by law enforcement officers. The following section provides examples of statutory provisions related to the carrying of firearms by off-duty and retired law enforcement officers onto property where license holders may not otherwise carry firearms. The Minnesota statute cited below was selected as an example because its statutory treatment of off-duty officers differs from the Wisconsin statutes. The Michigan statute was selected as an example because its statutory treatment of retired officers differs from the Wisconsin statutes.

Minnesota

Minnesota law allows an individual to carry a "pistol" if the individual obtains a permit, but exempts law enforcement officers from the requirement for a permit. [Minn. Stat. s. 624.417 (1).] Minnesota law also allows the operator of a private establishment to request that firearms not be brought into the establishment by posting a sign or personally informing the individual. However, the posting of a private establishment does not apply to an "active licensed peace officer." [Minn. Stat. s. 624.714 (17) (g) (1).] Therefore, it appears that off-duty licensed officers are not required to comply with postings that prohibit the carrying of firearms on posted premises.

The statutory language exempting active law enforcement officers reads in relevant part:

Subd. 17. Posting; trespass. (a) A person carrying a firearm on or about his or her person or clothes under a permit or otherwise who remains at a private establishment knowing that the operator of the establishment or its agent has made a reasonable request that firearms not be brought into the establishment may be ordered to leave the premises. A person who fails to leave when so requested is guilty of a petty misdemeanor. The fine for a first offense must not exceed \$25. Notwithstanding section 609.531, a firearm carried in violation of this subdivision is not subject to forfeiture.

(g) This subdivision does not apply to:

- (1) **An active licensed peace officer;** or
- (2) A security guard acting in the course and scope of employment.

[Minn. Stat. s. 624.714 (17).] [Emphasis added.]

The Wisconsin trespass statute that permits posting of property to prohibit the carrying of firearms does not contain an equivalent exemption for active law enforcement officers. Therefore, the Minnesota statutes treat the carrying of firearms by off-duty officers onto posted property differently than the Wisconsin statutes.

Michigan

Michigan law allows an individual to carry a “concealed pistol” if the individual is licensed. [MCLS s. 28.425o (1).] The Michigan statute does not address the posting of property to specifically prohibit firearms, but does specify “pistol-free zones” in which carrying is explicitly prohibited. The “pistol-free zones” include locations such as child care centers, hospitals, sports arenas, entertainment facilities, or places of worship, which may be privately owned. [MCLS s. 28.425o (1).] Therefore, individuals are prohibited from carrying firearms onto specified types of private property. However, the Michigan statute creates an explicit exemption for licensed retired law enforcement officers. The exemption allows these retired officers to carry in the “pistol-free zones,” including the private property on which the carrying of a concealed pistol is otherwise prohibited.

The statutory language exempting retired law enforcement officers reads in relevant part:

Section 28.425o. Premises on which carrying concealed weapon prohibited; “premises” defined; exceptions to subsection (1); violation; penalties.

(1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a (1) (f), shall not carry a concealed pistol on the premises of any of the following:

a. A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school

b. A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

c. A sports arena or stadium.

d. A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises.

(4) Subsection (1) does not apply to any of the following:

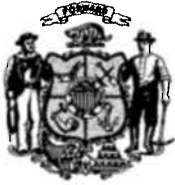
(a) **An individual licensed under this act who is a retired police officer or retired law enforcement officer.** The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

[MCLS s. 28.425o.] [Emphasis added.]

The Wisconsin statutes do not include an equivalent exemption for retired law enforcement officers. Though Michigan law does not address the posting of property to specifically prevent the carrying of firearms, it does enumerate "pistol-free zones" that include certain private property. Therefore, the Michigan statutes treat the carrying of firearms by licensed retired law enforcement officers differently than the Wisconsin statutes.

If you have any questions or need additional information, please do not hesitate to contact me at the Legislative Council staff offices.

KBO:ty



Wed
(cmh)

2011 ASSEMBLY BILL 299

October 3, 2011 - Introduced by Representatives KLEEFISCH and STROEBEL, cosponsored by Senators KEDZIE and HOLPERIN. Referred to Committee on Criminal Justice and Corrections.

Regen

~~law enforcement officers~~ and former law enforcement officers

1 AN ACT to renumber and amend 813.12 (4m) (a) 1. and 813.122 (5m) (a) 1.; to

2 amend 941.29 (10) (a), 948.605 (2) (b) 1m. and 948.605 (3) (b) 4.; and to create

3 813.12 (4m) (a) 1. b., 813.122 (5m) (a) 1. b., 948.605 (2) (b) 2d., 948.605 (2) (b)

4 2f. and 2h. and 948.605 (3) (b) 4f. and 4h. of the statutes; relating to: ^{off-duty} law

5 enforcement officers and firearms in school zones and certain injunctions

6 against law enforcement officers.

Analysis by the Legislative Reference Bureau

Current law generally prohibits a person from possessing or discharging a firearm in, or on the grounds of, a school or within 1,000 feet from the grounds of a school. Current law contains several exemptions to this prohibition, including law enforcement officers who are acting in their official capacity and, if the person is not in or on the grounds of a school, a person who holds a license to carry a concealed weapon. This bill eliminates the requirement that the officer be acting in his or her official capacity if the officer is authorized to carry a firearm; the officer is not the subject of any disciplinary action by the law enforcement agency that could result in the suspension or loss of his or her law enforcement authority; the officer is qualified under standards established by the law enforcement agency to use a firearm; the law enforcement officer is not prohibited under federal law from possessing a firearm; the firearm is not a machine gun or a destructive device, such as a bomb; the officer is not carrying a firearm silencer; and the officer is not under the influence of an

ASSEMBLY BILL 299

intoxicant. This bill also excepts from the prohibition former law enforcement officers who are carrying certain identification that identifies the type of firearm he or she is qualified to carry and who are not under the influence of an intoxicant.

Also, current law prohibits any person who is subject to a domestic abuse injunction or a child abuse injunction from possessing a firearm. The prohibition, however, does not apply to a peace officer while he or she is on duty or, if required as a condition of employment, while he or she is off duty. A peace officer who violates the prohibition without being subject to the exemption is guilty of a Class G felony. Under this bill, a peace officer who violates the prohibition without being subject to the exemption is guilty of violating the injunction and, as such, is subject to a fine of up to \$1,000 or a term of imprisonment for up to nine months, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 813.12 (4m) (a) 1. of the statutes is renumbered 813.12 (4m) (a) 1.

2 a. and amended to read:

3 813.12 **(4m)** (a) 1. a. ~~Inform~~ Except as provided in subd. 1. b., inform the
4 respondent named in the petition of the requirements and penalties under s. 941.29.

5 **SECTION 2.** 813.12 (4m) (a) 1. b. of the statutes is created to read:

6 813.12 **(4m)** (a) 1. b. If the respondent is a peace officer, prohibit the respondent
7 from possessing a firearm unless the respondent is on duty, except if the respondent
8 is required as a condition of employment to possess a firearm while off duty.

9 **SECTION 3.** 813.122 (5m) (a) 1. of the statutes is renumbered 813.122 (5m) (a)

10 1. a. and amended to read:

11 813.122 **(5m)** (a) 1. a. ~~Inform~~ Except as provided in subd. 1. b., inform the
12 respondent named in the petition of the requirements and penalties under s. 941.29.

13 **SECTION 4.** 813.122 (5m) (a) 1. b. of the statutes is created to read:

14 813.122 **(5m)** (a) 1. b. If the respondent is a peace officer, prohibit the
15 respondent from possessing a firearm unless the respondent is on duty, except if the

INS
A

ASSEMBLY BILL 299

1 respondent is required as a condition of employment to possess a firearm while off
2 duty.

3 **SECTION 5.** 941.29 (10) (a) of the statutes is amended to read:

4 941.29 (10) (a) The person is a peace officer and the person possesses a firearm
5 while in the line of duty or, if required to do so as a condition of employment, while
6 off duty. Notwithstanding s. 939.22 (22), for purposes of this paragraph, peace officer
7 does not include a commission warden who is not a state-certified commission
8 warden.

9 **SECTION 6.** 948.605 (2) (b) 1m. of the statutes, as created by 2011 Wisconsin Act
10 35, is amended to read:

11 948.605 (2) (b) 1m. A person who possesses the firearm in accordance with 18
12 USC 922 (q) (2) (B) (i), (iv), (v), (vi), or (vii).

13 **SECTION 7.** 948.605 (2) (b) 2d. of the statutes is created to read:

14 948.605 (2) (b) 2d. A person who is employed in this state by a public agency
15 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
16 applies.

17 **SECTION 8.** 948.605 (2) (b) 2f. and 2h. of the statutes are created to read:

18 948.605 (2) (b) 2f. A qualified out-of-state law enforcement officer, as defined
19 in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

20 2h. A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.
21 to 7. applies.

22 **SECTION 9.** 948.605 (3) (b) 4. of the statutes is amended to read:

23 948.605 (3) (b) 4. By a person who is employed in this state by a public agency
24 as a law enforcement officer or and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to
25 3. applies.

1WS
3-B

1WS
3-22

ASSEMBLY BILL 299

S., 6. and 7.

1 5. By a state-certified commission warden acting in his or her official capacity.

2 **SECTION 10.** 948.605 (3) (b) ~~4. and 4a.~~ of the statutes are created to read:

*WS
4-3*

3 948.605 (3) (b) 4f. By a qualified out-of-state law enforcement officer, as
4 defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

5 ~~7~~ ~~4.~~ By a former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c)
6 1. to 7. applies.

7 **SECTION 11. Effective date.**

8 (1) The treatment of section 948.605 (2) (b) 1m., 2d., 2f., and 2h. and (3) (b) 4.,
9 4f., and 4h. of the statutes takes effect on November 1, 2011.

10 (END)

LPS: From 1?
 LRB-3882(?)
 CMH:.....
 SECTION 1
 ~~CP~~
 ~~note~~

MS
 3-13

SECTION 1. 175.60 (16) (b) 4. of the statutes is created to read:

175.60 (16) (b) 4. A weapon if a person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies is carrying the weapon ^{or} if a qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies ^{is} carrying the weapon.

INSERT MOON

SECTION 2. 943.13 (4m) of the statutes is renumbered 943.13 (4m) (am).

SECTION 3. 943.13 (4m) (bm) of the statutes is created to read:

943.13 (4m) (bm) Subsection (1m) (c) does not apply to a person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies ^{or} to a qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

INSERT STAR

SECTION 4. 948.605 (2) (b) 1o. and 1p. of the statutes are created to read:

948.605 (2) (b) 1o. A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.

1p. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

SECTION 5. 948.605 (3) (b) 1. of the statutes is amended to read:

948.605 (3) (b) 1. On private property not part of school grounds;

History: 1991 a. 17; 1993 a. 336; 2001 a. 109; 2005 a. 290; 2007 a. 27; 2011 a. 35.

SECTION 6. 948.605 (3) (b) 2. of the statutes is amended to read:

MS
 7-22

1 948.605 (3) (b) 2. As part of a program approved by a school in the school zone,
2 by an individual who is participating in the program;

3 History: 1991 a. 17; 1993 a. 336; 2001 a. 109; 2005 a. 290; 2007 a. 27; 2011 a. 35.

3 SECTION 7. 948.605 (3) (b) 3. of the statutes is amended to read:

4 948.605 (3) (b) 3. By an individual in accordance with a contract entered into
5 between a school in a school zone and the individual or an employer of the individual;
6 OF.

7 History: 1991 a. 17; 1993 a. 336; 2001 a. 109; 2005 a. 290; 2007 a. 27; 2011 a. 35.

7 SECTION 8. 948.605 (3) (b) 5. and 6. of the statutes are created to read:

8 948.605 (3) (b) 5. By a person who is employed in this state by a public agency
9 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
10 applies.

11 6. By a qualified out-of-state law enforcement officer, as defined in s. 941.23
12 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

13 (END)

END
OF
IWS
3-22

IWS
4-3

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4033/lins
CMH:.....

1 Insert A

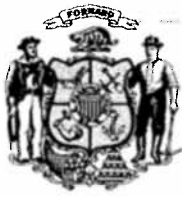
→ Under current law, an off-duty law enforcement officer or a former law enforcement officer may go armed with (carry) a concealed weapon if he or she has a license issued by the department of Justice of if he or she carries a photographic identification issued by the law enforcement agency that employs or in the case of a former law enforcement officer, employed, him or her and meets other qualifications such as meeting any standards established by the agency to carry a firearm, not being under the influence of an intoxicant, and not carrying a machine gun or a firearm silencer. Federal law explicitly preempts any state law prohibiting a qualified off-duty law enforcement officer or a qualified former law enforcement officer from carrying a concealed firearm, but federal law allows a state to permit private persons to prohibit the possession of concealed firearms on their property and to prohibit firearms on any state or local government property, installation, building, base, or park. Current state law law prohibits licensees from carrying a concealed firearm, or from openly carrying a firearm, into a police station, a prison or jail, certain mental health facilities, and a courthouse; beyond a security checkpoint in an airport; and on school grounds and certain posted private properties. This bill exempts qualified law enforcement officers, off-duty qualified law enforcement officers, and former qualified law enforcement officers from these prohibitions.

2
3 Insert Moon

4 , or if a former officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c) 1.
5 to 7. applies

6
7 Insert Star

8 , or to a former officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c)
9 1. to 7. applies



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4033/2
CMH:kjf:jm

2

Today please

2011 BILL

Regen

Law enforcement officers who are on duty,

1 AN ACT *to renumber* 943.13 (4m); *to amend* 948.605 (3) (b) 1., 948.605 (3) (b)
2 2. and 948.605 (3) (b) 3.; and *to create* 175.60 (16) (b) 4., 943.13 (4m) (bm),
3 948.605 (2) (b) 2d., 948.605 (2) (b) 2f. and 2h. and 948.605 (3) (b) 5., 6. and 7. of
4 the statutes; **relating to:** off-duty law enforcement officers, and former law
5 enforcement officers and firearms.

going armed with

Analysis by the Legislative Reference Bureau

Under current law, an off-duty law enforcement officer or a former law enforcement officer may go armed with (carry) a concealed weapon if he or she has a license issued by the Department of Justice or if he or she carries a photographic identification issued by the law enforcement agency that employs or, in the case of a former law enforcement officer, employed, him or her and meets other qualifications such as meeting any standards established by the agency to carry a firearm, not being under the influence of an intoxicant, and not carrying a machine gun or a firearm silencer. Federal law explicitly preempts any state law prohibiting a qualified off-duty law enforcement officer or a qualified former law enforcement officer from carrying a concealed firearm, but federal law allows a state to permit private persons to prohibit the possession of concealed firearms on their property and to prohibit firearms on any state or local government property, installation, building, base, or park. Current state law prohibits a licensee from carrying a concealed firearm, or from openly carrying a firearm, into a police station, a prison or jail, certain mental health facilities, and a courthouse; beyond a security checkpoint in

BILL

an airport; and on school grounds and certain posted private properties. This bill exempts off-duty qualified law enforcement officers and former qualified law enforcement officers from these prohibitions.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 175.60 (16) (b) 4. of the statutes is created to read:

175.60 (16) (b) 4. A weapon if a person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies is carrying the weapon, if a qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies, or if a former officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c) 1. to 7. applies is carrying the weapon.

SECTION 2. 943.13 (4m) of the statutes is renumbered 943.13 (4m) (am).

SECTION 3. 943.13 (4m) (bm) of the statutes is created to read:

943.13 (4m) (bm) Subsection (1m) (c) does not apply to a person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies, to a qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies, or to a former officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c) 1. to 7. applies.

SECTION 4. 948.605 (2) (b) 2d. of the statutes is created to read:

948.605 (2) (b) 2d. A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.

INS B

INS A

INS 2-10

INS 2-8

BILL

1 **SECTION 5.** 948.605 (2) (b) 2f. and 2h. of the statutes are created to read:

2 948.605 (2) (b) 2f. A qualified out-of-state law enforcement officer, as defined
3 in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

4 2h. A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.
5 to 7. applies.

6 **SECTION 6.** 948.605 (3) (b) 1. of the statutes is amended to read:

7 948.605 (3) (b) 1. On private property not part of school grounds;

8 **SECTION 7.** 948.605 (3) (b) 2. of the statutes is amended to read:

9 948.605 (3) (b) 2. As part of a program approved by a school in the school zone,
10 by an individual who is participating in the program;

11 **SECTION 8.** 948.605 (3) (b) 3. of the statutes is amended to read:

12 948.605 (3) (b) 3. By an individual in accordance with a contract entered into
13 between a school in a school zone and the individual or an employer of the individual;
14 or

15 **SECTION 9.** 948.605 (3) (b) 5., 6. and 7. of the statutes are created to read:

16 948.605 (3) (b) 5. By a person who is employed in this state by a public agency
17 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
18 applies.

19 6. By a qualified out-of-state law enforcement officer, as defined in s. 941.23
20 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

21 7. By a former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c)
22 1. to 7. applies.

23

(END)

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4033/2ins
CMH:.....

1 Insert A

 law enforcement officers who are acting in their official capacity (who are
currently exempt only from the prohibition against carrying on school grounds);

2

3 Insert B

 , without regard to whether they are on duty;

4

5 Insert 2-8

6 **SECTION 1.** 175.60 (16) (b) 4. of the statutes is created to read:

7 175.60 **(16)** (b) 4. A weapon if the person who is carrying the weapon is any of
8 the following:

9 a. A law enforcement officer who is acting in his or her official capacity.

10 b. A person who is employed in this state by a public agency as a law
11 enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.

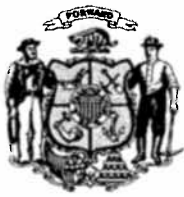
12 c. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1)
13 (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

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

16

17 Insert 2-10

18 a law enforcement officer who is acting in his or her official capacity, to



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4033/3
CMH:kjf:jm

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Today please

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2011 BILL

reyn car


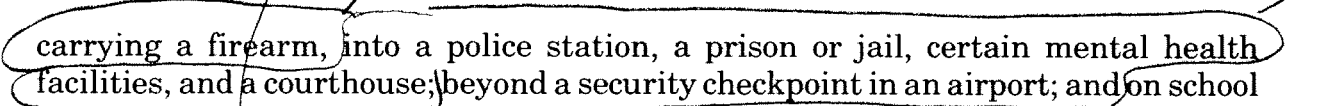
1 **AN ACT** to renumber 943.13 (4m); to amend 948.605 (3) (b) 1., 948.605 (3) (b)
 2 2. and 948.605 (3) (b) 3.; and to create 175.60 (16) (b) 4., 943.13 (4m) (bm),
 3 948.605 (2) (b) 2d., 948.605 (2) (b) 2f. and 2h. and 948.605 (3) (b) 5., 6. and 7. of
 4 the statutes; relating to: law enforcement officers who are on duty, off-duty
 5 law enforcement officers, and former law enforcement officers and going armed
 6 with firearms.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer or a former law enforcement officer may go armed with (carry) a concealed weapon if he or she has a license issued by the Department of Justice or if he or she carries a photographic identification issued by the law enforcement agency that employs or, in the case of a former law enforcement officer, employed, him or her and meets other qualifications such as meeting any standards established by the agency to carry a firearm, not being under the influence of an intoxicant, and not carrying a machine gun or a firearm silencer. Federal law explicitly preempts any state law prohibiting a qualified law enforcement officer or a qualified former law enforcement officer from carrying a concealed firearm, but federal law allows a state to permit private persons to prohibit the possession of concealed firearms on their property and to prohibit firearms on any state or local government property, installation, building, base, or park. Current state law prohibits a licensee from carrying a concealed firearm, or from openly

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BILL



 carrying a firearm, into a police station, a prison or jail, certain mental health facilities, and a courthouse, beyond a security checkpoint in an airport; and on school grounds and certain posted private properties. This bill exempts from these prohibitions law enforcement officers who are acting in their official capacity (who are currently exempt only from the prohibition against carrying on school grounds); qualified law enforcement officers, without regard to whether they are on duty; and qualified former law enforcement officers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 175.60 (16) (b) 4. of the statutes is created to read:

175.60 (16) (b) 4. A weapon if the person who is carrying the weapon is any of the following:

- a. A law enforcement officer who is acting in his or her official capacity.
- b. A person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.
- c. A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.
- d. A former officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c) 1. to 7. applies.

SECTION 2. 943.13 (4m) of the statutes is renumbered 943.13 (4m) (am).

SECTION 3. 943.13 (4m) (bm) of the statutes is created to read:

943.13 (4m) (bm) Subsection (1m) (c) does not apply to a law enforcement officer who is acting in his or her official capacity, to a person who is employed in this state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies, to a qualified out-of-state law enforcement officer,

BILL

1 as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies, or to a former
2 officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c) 1. to 7. applies.

3 **SECTION 4.** 948.605 (2) (b) 2d. of the statutes is created to read:

4 948.605 (2) (b) 2d. A person who is employed in this state by a public agency
5 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
6 applies.

7 **SECTION 5.** 948.605 (2) (b) 2f. and 2h. of the statutes are created to read:

8 948.605 (2) (b) 2f. A qualified out-of-state law enforcement officer, as defined
9 in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

10 2h. A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.
11 to 7. applies.

12 **SECTION 6.** 948.605 (3) (b) 1. of the statutes is amended to read:

13 948.605 (3) (b) 1. On private property not part of school grounds;

14 **SECTION 7.** 948.605 (3) (b) 2. of the statutes is amended to read:

15 948.605 (3) (b) 2. As part of a program approved by a school in the school zone,
16 by an individual who is participating in the program;

17 **SECTION 8.** 948.605 (3) (b) 3. of the statutes is amended to read:

18 948.605 (3) (b) 3. By an individual in accordance with a contract entered into
19 between a school in a school zone and the individual or an employer of the individual;
20 or

21 **SECTION 9.** 948.605 (3) (b) 5., 6. and 7. of the statutes are created to read:

22 948.605 (3) (b) 5. By a person who is employed in this state by a public agency
23 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
24 applies.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4033/5
CMH:kjf:jm

Stays

TODAY please

2011 BILL

Reynolds

1 AN ACT *to renumber* 943.13 (4m); *to amend* 948.605 (3) (b) 1., 948.605 (3) (b)
2 2. and 948.605 (3) (b) 3.; and *to create* 943.13 (4m) (bm), 948.605 (2) (b) 2d.,
3 948.605 (2) (b) 2f. and 2h. and 948.605 (3) (b) 5., 6. and 7. of the statutes;
4 **relating to:** law enforcement officers who are on duty, off-duty law
5 enforcement officers, and former law enforcement officers and going armed
6 with firearms.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer or a former law enforcement officer may go armed with (carry) a concealed weapon if he or she has a license issued by the Department of Justice or if he or she carries a photographic identification issued by the law enforcement agency that employs or, in the case of a former law enforcement officer, employed, him or her and meets other qualifications such as meeting any standards established by the agency to carry a firearm, not being under the influence of an intoxicant, and not carrying a machine gun or a firearm silencer. Federal law explicitly preempts any state law prohibiting a qualified law enforcement officer or a qualified former law enforcement officer from carrying a concealed firearm, but federal law allows a state to permit private persons to prohibit the possession of concealed firearms on their property and to prohibit firearms on any state or local government property, installation, building, base, or park. Current state law prohibits a licensee from carrying a firearm on school grounds and on

BILL

certain posted private properties. This bill exempts from these prohibitions law enforcement officers who are acting in their official capacity (who are currently exempt only from the prohibition against carrying on school grounds); qualified law enforcement officers, without regard to whether they are on duty; and qualified former law enforcement officers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1., 1m., 2., 3., and 5. do

1 **SECTION 1.** 943.13 (4m) of the statutes is renumbered 943.13 (4m) (am).

2 **SECTION 2.** 943.13 (4m) (bm) of the statutes is created to read:

3 943.13 (**4m**) (bm) Subsection (1m) (c) does not apply to a law enforcement

4 officer who is acting in his or her official capacity, to a person who is employed in this

5 state by a public agency as a law enforcement officer and to whom s. 941.23 (1) (g)

6 2. to 5. and (2) (b) 1. to 3. applies, to a qualified out-of-state law enforcement officer,

7 as defined in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies, or to a former

8 officer, as defined in s. 941.23 (1) (a), to whom s. 941.23 (2) (c) 1. to 7. applies.

9 **SECTION 3.** 948.605 (2) (b) 2d. of the statutes is created to read:

10 948.605 (2) (b) 2d. A person who is employed in this state by a public agency

11 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.

12 applies.

13 **SECTION 4.** 948.605 (2) (b) 2f. and 2h. of the statutes are created to read:

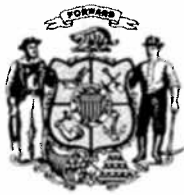
14 948.605 (2) (b) 2f. A qualified out-of-state law enforcement officer, as defined

15 in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

16 2h. A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.

17 to 7. applies.

18 **SECTION 5.** 948.605 (3) (b) 1. of the statutes is amended to read:



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-4033/4 5
CMH:kjf:jm

2011 BILL

TODAY
PLEASE

reynold

1 AN ACT *to renumber* 943.13 (4m); *to amend* 948.605 (3) (b) 1., 948.605 (3) (b)
2 2. and 948.605 (3) (b) 3.; and *to create* 943.13 (4m) (bm), 948.605 (2) (b) 2d.,
3 948.605 (2) (b) 2f. and 2h. and 948.605 (3) (b) 5., 6. and 7. of the statutes;
4 **relating to:** law enforcement officers who are on duty, off-duty law
5 enforcement officers, and former law enforcement officers and going armed
6 with firearms.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer or a former law enforcement officer may go armed with (carry) a concealed weapon if he or she has a license issued by the Department of Justice or if he or she carries a photographic identification issued by the law enforcement agency that employs or, in the case of a former law enforcement officer, employed, him or her and meets other qualifications such as meeting any standards established by the agency to carry a firearm, not being under the influence of an intoxicant, and not carrying a machine gun or a firearm silencer. Federal law explicitly preempts any state law prohibiting a qualified law enforcement officer or a qualified former law enforcement officer from carrying a concealed firearm, but federal law allows a state to permit private persons to prohibit the possession of concealed firearms on their property and to prohibit firearms on any state or local government property, installation, building, base, or park. Current state law prohibits a licensee from carrying a firearm on school grounds and on

BILL

certain posted private properties. This bill exempts from these prohibitions law enforcement officers who are acting in their official capacity (who are currently exempt only from the prohibition against carrying on school grounds); qualified law enforcement officers, without regard to whether they are on duty; and qualified former law enforcement officers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 943.13 (4m) of the statutes is renumbered 943.13 (4m) (am).

2 SECTION 2. 943.13 (4m) (bm) of the statutes is created to read:

3 943.13 (4m) (bm) Subsection (1m) (c) 1., 1m., 2., 3., and 5. do not apply to a
4 person who is employed in this state by a public agency as a law enforcement officer
5 and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies, to a qualified
6 out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to whom s. 941.23
7 (2) (b) 1. to 3. applies, or to a former officer, as defined in s. 941.23 (1) (a), to whom
8 s. 941.23 (2) (c) 1. to 7. applies.

9 SECTION 3. 948.605 (2) (b) 2d. of the statutes is created to read:

10 948.605 (2) (b) 2d. A person who is employed in this state by a public agency
11 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
12 applies.

13 SECTION 4. 948.605 (2) (b) 2f. and 2h. of the statutes are created to read:

14 948.605 (2) (b) 2f. A qualified out-of-state law enforcement officer, as defined
15 in s. 941.23 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

16 2h. A former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c) 1.
17 to 7. applies.

18 SECTION 5. 948.605 (3) (b) 1. of the statutes is amended to read:

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1 948.605 (3) (b) 1. On private property not part of school grounds;

2 **SECTION 6.** 948.605 (3) (b) 2. of the statutes is amended to read:

3 948.605 (3) (b) 2. As part of a program approved by a school in the school zone,
4 by an individual who is participating in the program;

5 **SECTION 7.** 948.605 (3) (b) 3. of the statutes is amended to read:

6 948.605 (3) (b) 3. By an individual in accordance with a contract entered into
7 between a school in a school zone and the individual or an employer of the individual;
8 or.

9 **SECTION 8.** 948.605 (3) (b) 5., 6. and 7. of the statutes are created to read:

10 948.605 (3) (b) 5. By a person who is employed in this state by a public agency
11 as a law enforcement officer and to whom s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3.
12 applies.

13 6. By a qualified out-of-state law enforcement officer, as defined in s. 941.23
14 (1) (g), to whom s. 941.23 (2) (b) 1. to 3. applies.

15 7. By a former officer, as defined in s. 941.23 (1) (c), to whom s. 941.23 (2) (c)
16 1. to 7. applies.

17 (END)

Barman, Mike

From: Summerfield, Craig
Sent: Monday, March 05, 2012 5:26 PM
To: LRB.Legal
Cc: Hanaman, Cathlene; Kelly, Scott
Subject: Draft Review: LRB 11-4033/5 Topic: Carrying concealed weapons by law enforcement, former law enforcement, and off-duty law enforcement; school zones, private property

Please Jacket LRB 11-4033/5 for the SENATE.

Regards,

Craig Summerfield

Committee Clerk - Labor, Public Safety & Urban Affairs
Office of Senator Van H. Wanggaard
Phone: (608) 266-1832