
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Assembly Bill 826

Assembly Amendment 1

2021 ASSEMBLY BILL 826

Assembly Bill 826 makes changes to state law relating to use of pepper spray by an employee of the Department of Corrections (DOC). Current law criminalizes use of a device or container that contains a combination of oleoresin of capsicum or CS gel and inert ingredients but does not contain any other gas or substance that will cause bodily discomfort (hereinafter, “pepper spray”) to cause bodily harm or discomfort to another person, unless an exception applies. Existing law includes exceptions for use in self-defense and for use by peace officers, armed forces personnel, and National Guard personnel, but does not include an exception for correctional officers or other DOC employees.

The bill creates a new exception allowing DOC employees to use pepper spray when acting in an official capacity. The bill also forbids DOC from prohibiting an employee, while acting in an official capacity, from carrying or using pepper spray.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 changes the provision forbidding DOC from prohibiting employees from carrying or using pepper spray and allows DOC to require training before an employee may carry or use pepper spray. Under the bill, DOC was forbidden from prohibiting any employee acting in an official capacity from carrying or using pepper spray. This would prevent DOC from requiring employees to be trained on pepper spray use before carrying pepper spray.

The amendment, in contrast, allows DOC to prohibit an employee from carrying or using pepper spray unless the employee completes training and is acting in an official capacity. The amendment also requires DOC to make training on the use of pepper spray available to all employees.

The amendment also changes the exception that allows a DOC employee to use pepper spray to cause bodily harm or discomfort to another person. Under the amendment, the exception applies to a DOC employee who has completed DOC training on use of pepper spray and is acting in an official capacity, rather than a DOC employee who is acting in an official capacity.

BILL HISTORY

Assembly Amendment 1 was introduced by Representative Snyder on January 13, 2022. On January 18, 2022, the Assembly Committee on Corrections adopted the amendment on a vote of Ayes, 9; Noes, 0. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 7; Noes, 3.

KBO:jal