

2011 Wisconsin Act 35



COMMITTEE OF THE WHOLE
AGENDA ITEM 11-7061
FEBRUARY 5, 2013



2011 Wisconsin Act 35



- Created a process for Wisconsin residents to obtain concealed carry licenses
- Designated places where weapons may be prohibited
- Designated Places where weapons are not permitted
- Among other matters



License-Carry Requirements



- Licensee or an out-of-state licensee who is carrying a concealed weapon must have with him or her their license document and photographic identification card
 - unless the concealed weapon is being carried in the licensee's dwelling or place of business or on land that they owns lease, or legally occupy

Wis. Stat. § 175.60(2g)(b)

- A person who does not carry or display a CCW license and photo ID as required may be ordered to forfeit not more than \$25
 - except that the a person is exempt from this penalty if he or she presents, within 48 hours of the request, his or her license document and photographic identification to the law enforcement agency who employs the officer who lawfully requested the documents

Wis. Stat. § 175.60(17)(a)



Employers



- An employer may prohibit an employee from carrying a concealed weapon in the course of the employee's employment. *Wis. Stat. § 175.60(15m)(a)*.
- An employer may not prohibit a person with a CCW license from storing a weapon or ammunition in the licensee's own motor vehicle
 - Whether the motor vehicle is used in the course of employment
 - Whether the motor vehicle is driven or parked on property used by the employer.

Wis. Stat. § 175.60(15m)(b)



Business and Property Owners



- Certain owners and occupants of property to prohibit persons from carrying a concealed firearm in or on the property
- Property owners generally possess the right to exclude others from their property
- Property owners may also prohibit or restrict the possession of firearms and other weapons on their property
- Notice required
 - Type of notice depends on type of property/property owner



Business and Property Owners May Prohibit Weapons



- **Single Family Residences - Wis. Stat. § 943.13(1m)(c)1**
 - Includes buildings and all land
 - Simple notification required

- **Condominiums/Apartment - Wis. Stat. § 943.13(1m)(c)1m**
 - Building and common areas
 - Notice by owner/occupant by use of a sign
 - Does not apply to a part of the grounds that is used for parking if the firearm is in a vehicle driven or parked in that part

Business and Property Owners May Prohibit Weapons



- Nonresidential Building and Grounds of a Nonresidential Building – Wis. Stat. § 943.13(1m)(c)2 and § 943.13(1e)(cm)
 - Notice by owner or occupant of that part of the building, grounds, or land by use of a sign
 - Does not apply to a part of a building, grounds, or land occupied by the state, a local unit of government, a public or privately-owned university or college
 - Does not apply to a part of the grounds that is used for parking if the firearm is in a vehicle driven or parked in that part
 - “Nonresidential building” does includes a nursing home, a community-based residential facility, a residential care apartment complex, an adult family home, and a hospice



Business and Property Owners May Prohibit Weapons



- Land – Wis. Stat. § 943.13(1m)(c)2 and § 943.13(1e)(cm)
 - Notice by owner or occupant of that part of the land by use of a sign
 - Does not apply to grounds or land occupied by the state, a local unit of government, a public or privately-owned university or college
 - Does not apply to a part of the grounds that is used for parking if the firearm is in a vehicle driven or parked in that part



Business and Property Owners May Prohibit Weapons



- Special Event – Wis. Stat. § 943.13(1m)(c)5
 - An event that is:
 - ✦ open to the public,
 - ✦ for a duration of 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
 - Does not apply if the firearm is in a vehicle driven to or parked in any part of the special event grounds or building that is used as a parking facility



Business and Property Owners May Prohibit Weapons



- Private or Public University or College – Wis. Stat. § 943.13(1m)(c)3
 - Applies to a building on the grounds of a university or college
 - Notice by the university or college by use of a sign
 - Does not apply to a part of a building that is used for parking if the firearm is in a vehicle driven or parked in that part



Business and Property Owners May Prohibit Weapons



- State or Local Government Building – Wis. Stat. § 943.13(1m)(c)4
 - Applies to any part of a building that is owned, occupied, or controlled by the state or any local governmental unit
 - Notice by the state or local government unit by use of a sign
 - Does not apply to a person who leases residential or business premises in the building
 - Does not apply to a part of a building or parking facility that is used for parking if the firearm is in a vehicle driven or parked in that part
 - Only applies to government buildings
 - ✦ Persons with a CCW license may carry concealed on public lands. Wis. Stat. § 943.13(1m)(c)2 and § 943.13(1e)(cm)



Business and Property Owners May Prohibit Weapons



- **State or Local Government Building - Wis. Stat. § 941.235**
 - NOTE: It is a misdemeanor for any person to “go armed” in a state or local government building unless the person:
 - ✦ Is a peace officer
 - ✦ Is a member of the armed forces while on duty
 - ✦ Is an out-of-state law enforcement officer
 - ✦ Is a former law enforcement officer
 - ✦ Is a Wisconsin or out-of-state CCW licensee
 - This prohibits “open carry” by anyone who does not fit into these categories
 - Pre-dates 2011 Wisconsin Act 35, but remains in force



Schools



- Schools – Wis. Stat. §§ 948.605(1)(b), 948.61(1)(b)
 - Defined as:
 - ✦ public school,
 - ✦ parochial school,
 - ✦ private school,
 - ✦ or tribal school,
 - which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school



Schools



- Schools
 - It is a felony for a person to knowingly possess a firearm (concealed or otherwise) on the grounds of a school – Wis. Stat. § 948.605(2)(a)
 - It is a forfeiture for a person to knowingly possess a firearm (concealed or otherwise) at a place that the person knows or has reasonable cause to believe is within 1,000 feet of the grounds of a school – Wis. Stat. § 948.605(2)(a)
 - Many exceptions, including but not limited to:
 - ✦ On private property that is not part of school grounds. Wis. Stat. § 948.605(2)(b)1m and 18 USC 922(q)(2)(B)(i)
 - ✦ A person who is a CCW licensee or out-of-state CCW licensee may possess a firearm within 1,000 feet of the grounds of a school, but not in or on school grounds. Wis. Stat. § 948.605(2)(b)1r



Concealed or Open Carry Prohibited



- A licensee or an authorized out-of-state licensee *may not* carry a either concealed or unconcealed, in the following locations:
 - 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
 - Any portion of a building that is a prison, jail, house of correction, or secured correctional facility
 - The Sand Ridge Secure Treatment Center, the Wisconsin Resource Center, or any secured unit or secured portion of a mental health institution, including a facility designated as the Maximum Security Facility at the Mendota Mental Health Institute
 - Any portion of a building that is a county, state, or federal courthouse
 - Any portion of a building that is a municipal courtroom if court is in session
 - Any place beyond a security checkpoint in an airport

Wis. Stat. § 175.60(16)(a)



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 - Any portion of a building that is a county, state, or federal courthouse
 - Any portion of a building that is a municipal courtroom if court is in session
 - Any place beyond a security checkpoint in an airport

Wis. Stat. § 175.60(16)(a)



Concealed or Open Carry Prohibited



- The above prohibitions do not apply to any of the following:
 - A weapon in a vehicle driven or parked in a parking facility located in a building that is used as, or any portion of which is used as, a location described above.
 - A weapon in a courthouse if a judge who is a licensee is carrying the weapon, or if another licensee or out-of-state licensee, whom a judge has permitted in writing to carry a weapon, is carrying the weapon.
 - A weapon in a courthouse or courtroom if a district attorney, or an assistant district attorney, who is a licensee is carrying the weapon.

Wis. Stat. § 175.60(16)(b)

- Note that federal law applies to US Government land and property



Concealed or Open Carry Prohibited



- City of Racine buildings where Concealed or Open Carry is prohibited by State law:
 - Open Carry Prohibited:
 - ✦ All City Buildings
 - Except police, on-duty military, and CCW licensees



Concealed or Open Carry Prohibited



- City of Racine buildings where Concealed or Open Carry is prohibited by State law:
 - Concealed and Open Carry Prohibited:
 - ✦ Safety Building
 - Racine Police Department facilities only
 - ✦ Annex
 - Racine Police Department facilities
 - Municipal Courtroom when court is in session
 - ✦ COP Houses
 - Racine Police Department facilities



Concealed or Open Carry Prohibited



- City of Racine buildings where Concealed or Open Carry is prohibited by Library Board action:
 - All Racine Public Library facilities
 - ✦ Note: Wis. Stat. § 43.58 gives library boards “exclusive charge, control and custody” of all “buildings ... devised, bequeathed, given or granted to, or otherwise acquired or leased by, the municipality for library purposes.”



Concealed or Open Carry Not Prohibited



- City of Racine property where Concealed or Open Carry may not be prohibited by State law:
 - Concealed and Open Carry May Not Be Prohibited:
 - ✦ The grounds of all parks
 - Except “special events” where the organizer prohibits weapons
 - ✦ The grounds appurtenant to all municipal buildings
 - ✦ In vehicles in parking lots and parking facilities



Mayor's Executive Order



- Mayor Dickert's Executive Order
 - Effective November 1, 2011
 - Prohibited All Concealed or Unconcealed Weapons:
 - ✦ Upon any City owned, occupied, or controlled building or structure at any time
 - ✦ At any special event at any City owned, occupied, or controlled building, structure, facility, grounds, or land
 - Excepted:
 - ✦ Bona fide police officers
 - ✦ City owned, occupied, or controlled buildings, structures, facilities, grounds, or land not containing a "sign"
 - ✦ A firearm in a vehicle driven or parked in a parking facility, to any part of a building, grounds, or land used as a parking facility or to any part of a special event grounds or building that is used as a parking facility



Potential Common Council Action



- Affirm or Overturn Mayor Dickert's Executive Order
 - If overturned, concealed carry would be permitted:
 - ✦ Safety Building
 - Racine Fire Department facilities
 - ✦ Annex
 - All building areas other than those used by Racine Police Department and the Municipal Court when in session
 - ✦ COP Houses
 - All building areas other than those used by Racine Police Department
 - ✦ City Hall
 - All areas
 - ✦ Community Centers
 - All areas
 - ✦ All other municipal buildings
 - All areas



Potential Common Council Action



- Prohibit weapons in some or all City buildings or structures or parts thereof
- Direct “signs” be placed upon all municipal facilities where weapons are prohibited by law or Common Council action
- Institute enforcement mechanisms
 - Municipal ordinance violation
 - ✦ Carrying Concealed Weapon without license and identification
 - \$25.00 forfeiture required by state law
 - ✦ Entering land/buildings/other property where concealed or open carry is prohibited by state law
 - Recommendation: Penalty Per Racine Ordinance 1-15
 - ✦ Entering or remaining on land/buildings/other property while armed after having been properly notified by owner/occupant that being armed is prohibited
 - Recommendation: Ordinance Trespass
 - Recommendation: Penalty Per Racine Ordinance 1-15
- Other actions deemed appropriate in Council discretion



Poll of City of Racine Employee Groups



- Local 67 – DPW/Parks, City Hall Clericals, Police Department Clericals, Crossing Guards
 - “We don’t feel it is safe or in the interest of anyone to have weapons of any kind in the City buildings.”
- Public Health Nurses and Health Department Professionals
 - “SEIU Healthcare Wisconsin is opposed to concealed carry in any worksite – including city buildings – where we have members.”
- All other bargaining units took no position



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