



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

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TO: SENATOR DAVID CRAIG
FROM: ^{LK} Larry Konopacki, Principal Attorney
RE: LRB-2039/1 - Possession of Firearms in School Zones
DATE: March 6, 2017 (Revised April 14, 2017)

This memorandum describes the provisions in LRB-2039/1 ("the bill draft") relating to the possession of firearms in school zones.

BACKGROUND

Both state and federal law include very similar "gun free school zones" provisions generally banning the possession of firearms in school buildings, on the grounds of a school, and within 1,000 feet of the grounds of a school. [s. 948.605, Stats.; 18 U.S.C. s. 922 (q) (2).] There are a number of exceptions to these general rules.¹

A person who has a Wisconsin concealed carry license under current law ("a licensee") is *not* subject to the *federal* gun free school zones law with respect to schools in Wisconsin. [18 U.S.C. s. 922 (q) (2) (B) (ii).]² In addition, a licensee is not subject to the general state prohibition against possessing a firearm within 1,000 feet of the grounds of a school.

Under state law, a person who knowingly possesses a firearm at a place that the person knows, or has reasonable cause to believe, is **in or on the grounds of a school** is guilty of a Class I felony. Any person who is not a licensee who knowingly possesses a firearm at a place that

¹ Some exceptions to these general rules include possession of a firearm for use in a school-approved program, possession under a contract with the school, possession by law enforcement officers, possession of unloaded and encased (federal law requires the case to be "locked") firearms, and possession while legally hunting in a school forest.

² The penalties for violation of the federal gun free school zones law are a fine up to \$5,000 or imprisonment for up to five years, or both. [18 U.S.C. s. 924 (a); 18 U.S.C. s. 357.] Federal law defines this penalty as a misdemeanor.

the person 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.

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The bill draft makes a number of changes related to the possession of firearms in or near a school. The bill draft eliminates the **state gun free school zones law** and instead specifies that schools may choose to prohibit the possession of firearms in schools or on the grounds of schools under state trespass law, by posting signs notifying people of the prohibition. If schools choose to "post" their school buildings or grounds in this way, such a prohibition would generally not apply to a firearm that is kept in a vehicle. Under the bill draft, possession of a firearm in a posted school building is punishable as a Class C misdemeanor and possession of a firearm on the posted grounds of a school is punishable as a Class B forfeiture.

As noted above, a person who holds a Wisconsin concealed carry license is **not** subject to the federal gun free school zones law with respect to schools in Wisconsin. This bill draft creates an additional type of Wisconsin concealed carry license that requires a background check to be conducted on the applicant but does not require the applicant to complete a training course. A person who obtains one of these new "basic" concealed carry licenses would also not be subject to the federal gun free school zones law with respect to schools in Wisconsin.

Under current law and the bill, a person must be at least 21 years old to obtain a Wisconsin concealed carry license. Therefore, possession of a firearm in a school zone by a person younger than 21 years old would remain illegal under federal law.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

LAK:ty