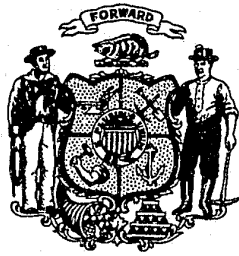


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WISCONSIN LAWS REGULATING FIREARMS

Information Memorandum 94-13

U.S. Department of Justice
National Institute of Justice

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Wisconsin Legislative Council Staff
One East Main Street, Suite 401
Madison, Wisconsin
Telephone: (608) 266-1304

May 19, 1994

*Information Memorandum 94-13**

WISCONSIN LAWS REGULATING FIREARMS

INTRODUCTION

This Information Memorandum describes the general regulation of firearms under Wisconsin law. The current Wisconsin system of firearm regulation: (1) restricts the possession of certain types of firearms; (2) restricts the possession of firearms by certain persons; and (3) prohibits the improper or unsafe possession or use of firearms.

This Memorandum does not describe in detail the various firearm regulations related to hunting in this state. Statutes regulating hunting are contained in ch. 29, Stats., Fish and Game; ch. NR 10, Wis. Adm. Code, Game and Hunting, contains rules interpreting these statutes. The Department of Natural Resources (DNR) should be consulted for additional information. Contact the Hunter's Education Program, (608) 266-2143, Larry Johnson, Administrator, (608) 266-1317.

References in this Information Memorandum to the Wisconsin Statutes include changes made to the 1991-92 Wisconsin Statutes by 1993 Wisconsin acts. 1993 Wisconsin acts reflected in this Information Memorandum include: 1993 Wisconsin Act 16, Executive Budget Act, relating, in part, to increasing the fee for a criminal history record search; 1993 Wisconsin Act 90, relating to the use of seized firearms and ammunition; 1993 Wisconsin Act 92, relating to taking a vehicle without the consent of the owner; 1993 Wisconsin Act 94, relating to discharging a firearm from a vehicle; 1993 Wisconsin Act 95, relating to going armed with a handgun on premises authorized to sell alcohol beverages for consumption on those premises; 1993 Wisconsin Act 98, relating, in part, to increasing the penalties for furnishing a firearm to a child and prohibiting the possession or use of a handgun equipped with armor-piercing bullets in the commission of a crime; 1993 Wisconsin Act 191, relating to restrictions on facsimile firearms; 1993 Wisconsin Act 195, relating to restricting the possession of a firearm by a child adjudicated delinquent for certain crimes; and 1993 Wisconsin Act 196, relating to restricting the possession of a firearm by a person committed for mental illness, drug dependency or developmental disability.

* This Information Memorandum was prepared by Shaun Haas, Senior Staff Attorney, Legislative Council Staff.

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I. RESTRICTIONS ON THE POSSESSION OF CERTAIN TYPES OF FIREARMS

A. AUTOMATIC AND SHORT-BARRELED FIREARMS

The sale, possession, use or transportation of machine guns or other fully automatic firearms and of short-barreled shotguns or short-barreled rifles is generally prohibited under ss. 941.26 to 941.28, Stats. A violation is a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both). In addition, the conversion of a firearm to a fully automatic firearm is generally prohibited; a violation is a Class C felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both).

There are exceptions to the prohibitions on machine guns and other fully automatic firearms and short-barreled firearms. The exceptions to the prohibition on fully automatic firearms are:

1. The sale, possession, use, modification or transportation of fully automatic firearms to or by any U.S. Armed Forces or National Guard personnel in the line of duty, any civil enforcement officer of the state or of any city or county, or any person duly authorized by the chief of police of any city or the sheriff of any county to sell, possess, use or transport such firearms. The restriction on the transportation of weapons does not apply to common carriers [s. 941.26 (3), Stats.].
2. The restoration of any firearm by a person licensed by the U.S. Department of the Treasury to collect firearms as curios or relics [s. 941.26 (3), Stats.].
3. The manufacture or sale of machine guns to the military or peace officers of the United States or any political subdivision thereof or the transportation required for that purpose.
4. The possession of a machine gun for scientific purposes.
5. The possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament or keepsake.
6. The possession of a machine gun other than one adapted to use pistol cartridges for a purpose manifestly not aggressive or offensive [s. 941.27 (2), Stats.].

The exceptions to the prohibition on short-barreled firearms are:

1. The sale, purchase, possession, use or transportation of a short-barreled shotgun or short-barreled rifle to or by any U.S. Armed Forces or National Guard personnel in the line of duty, any peace officer of the United States or of any political subdivision of the United States or any person who has complied with the licensing and registration requirements under federal law. The restriction on transportation of firearms does not apply to common carriers.

2. The manufacture of short-barreled shotguns or short-barreled rifles for any person or group authorized to possess these weapons.

3. Firearms that may be lawfully possessed under federal law or any firearm that could have been lawfully registered at the time of the enactment of the National Firearms Act of 1968 [s. 941.28 (4), Stats.].

B. SILENCERS

The sale, delivery and possession of firearm silencers is generally prohibited [s. 941.298, Stats.]. "Firearm silencer" means "any device for silencing, muffling or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating such a device, and any part intended only for use in that assembly or fabrication." Whoever sells, delivers or possesses a firearm silencer is guilty of a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both).

The firearm silencer prohibitions do not apply to the sale or delivery of firearm silencers to:

1. A peace officer acting in compliance with the written policies of the officer's department or agency. The exception expressly does not apply to any officer whose department or agency does not have such a policy.

2. Any U.S. Armed Forces or National Guard personnel, while in the line of duty.

3. Any person who has complied with the licensing and registration requirements under the National Firearms Act of 1968 [26 U.S.C. s. 5801, et seq.] [s. 941.298 (3), Stats.].

II. RESTRICTIONS ON POSSESSION OF FIREARMS BY CERTAIN PERSONS

A. POSSESSION BY CONVICTED FELONS, SERIOUS JUVENILE OFFENDERS AND DANGEROUS PERSONS WHO HAVE BEEN INVOLUNTARILY COMMITTED

1. General Prohibition

It is a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both) for a person to be in possession of a firearm if:

a. The person has been convicted of a felony in Wisconsin or another state.

b. The person has been found not guilty of a felony by reason of mental illness in Wisconsin or another state.

c. The person has been adjudicated delinquent for an act on or after April 21, 1994 that if committed by an adult in this state would be a felony.

d. The person has been involuntarily committed for treatment for mental illness, drug dependency or developmental disability as a result of a petition filed on or after April 21, 1994 and the court has issued an order prohibiting the individual from possessing a firearm subsequent to a determination by the court, based on evidence presented on the subject individual's dangerousness, that there is a substantial probability that the individual may use a firearm to cause physical harm to himself or herself or endanger public safety [s. 941.29 (1), Stats.].

The above prohibition against the possession of a firearm does not apply to the following:

a. Any person who has received a pardon with respect to the felony conviction and has been expressly authorized to possess a firearm.

b. Any person who has obtained "relief from disabilities" under 18 U.S.C. s. 925 (c). "Relief from disabilities" refers to the restoration of a convicted felon's civil rights, including the right to receive or possess any firearm under the law where the conviction occurred. The relief from disabilities exception generally makes legal, under federal firearms law, the transportation, shipment receipt, possession or importation of any firearm imported, sold or shipped to the United States or any U.S. department or agency or any state or political subdivision [s. 941.29 (5), Stats.].

c. Any correctional officer (employed before May 1, 1982) required to possess a firearm as a condition of employment [s. 941.29 (6), Stats.].

d. Any person who has been found not guilty or not responsible by reason of insanity or mental disease, defect or illness if a court subsequently determines both of the following:

(1) The person is no longer insane or no longer has a mental disease, defect or illness.

(2) The person is not likely to act in a manner dangerous to public safety [s. 941.29 (7), Stats.].

e. Any person adjudicated delinquent for an act that would be a felony if committed by an adult, if a court subsequently determines that the person is not likely to act in a manner dangerous to public safety [s. 941.29 (8), Stats.].

f. Any person who has been involuntarily committed and ordered not to possess a firearm, if the commitment order and any subsequent extension expire and the court determines, based on evidence presented on the issue of the subject individual's dangerousness, that there is no longer a substantial probability that the individual may use a firearm to cause physical harm to himself or herself or endanger public safety [s. 51.20 (13) (cv) 2, Stats.].

2. Criminal History and Involuntary Commitment Background Check for Handgun Purchases

In an effort to prevent the sale of handguns to persons ineligible to possess a firearm because of a prior felony conviction, delinquency adjudication or involuntary commitment, Wisconsin law prohibits a federally-licensed firearms dealer (federal law generally requires a dealer involved in interstate firearms sales to obtain a federal license) from transferring possession of a handgun until all of the following have occurred:

a. The purchaser has provided identification containing a photograph of the transferee, as required by rule adopted by the Department of Justice (DOJ), to the firearms dealer for inspection.

b. The purchaser has completed the notification form, prescribed in rules adopted by the DOJ, which requires the purchaser to disclose his or her name, date of birth, gender, race and Social Security number and any other identification needed to permit an accurate criminal history and involuntary commitment record search pertaining to the purchaser.

c. The firearms dealer has conveyed the information from the completed notification form to the DOJ, using the toll-free "hotline" telephone number and following procedures set under DOJ rule, and has requested a criminal history and involuntary commitment record search pertaining to the purchaser.

d. Forty-eight hours (subject to extension, if needed, to conduct the criminal history and involuntary commitment record search) have elapsed from the time that the firearms dealer has received a confirmation number regarding the criminal history and involuntary commitment record search from the DOJ and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29, Stats. (possession by convicted felons, certain juvenile offenders and persons who have been involuntarily committed) [s. 175.35 (2), Stats.].

The DOJ is required to notify the dealer of the results of the criminal history and involuntary commitment record search, either during the initial telephone call in which the firearms dealer conveys the information from the completed notification form and requests the criminal history and involuntary commitment record search, or as soon thereafter as practicable. The DOJ is barred from disclosing to the firearms dealer the reason the purchaser is prohibited from possessing the firearm. The DOJ is specifically required to:

a. Provide the firearms dealer with a unique nonapproval number if the search indicates that the purchaser is prohibited from possessing a firearm under s. 941.29, Stats.

b. Provide the firearms dealer with a unique approval number if the search indicates that the purchaser is not prohibited from possessing a firearm under s. 941.29, Stats.

c. Notify the firearms dealer that the 48-hour waiting period is extended to the end of the third complete working day (defined to exclude Saturday, Sunday or a legal holiday) commencing after the day on which the DOJ makes a finding that the search indicates a felony charge without a recorded disposition. During the extended period, the DOJ is required to make every reasonable

effort to determine the disposition of the charge and notify the firearms dealer of the results as soon as practicable [s. 175.35 (2g) (c) 4, Stats.].

Section 175.35 (2i), Stats., further authorizes the DOJ to charge a firearms dealer an \$8 fee for each criminal history and involuntary commitment record search that the firearms dealer requests. The firearms dealer may collect the fee from the purchaser. The DOJ may refuse to conduct criminal history and involuntary commitment record searches for any firearms dealer who fails to pay a required fee within 30 days after billing by the DOJ.

An intentional violation of the requirements imposed on firearms dealers or handgun purchasers under the background check provisions is subject to a fine of not less than \$500 nor more than \$10,000 and a term of imprisonment of not more than nine months.

The mandatory criminal history and involuntary commitment record check law does not apply to any of the following:

- a. Transfers of any handgun classified as an antique by regulations of the U.S. Department of the Treasury.
- b. Transfers of any handgun between firearms dealers or between wholesalers and dealers.
- c. Transfers of any handgun to law enforcement or armed services agencies [s. 175.35 (2t), Stats.].

B. POSSESSION BY CHILDREN AND FURNISHING TO CHILDREN

1. General Prohibitions

Possession of or going armed with dangerous weapons by children is generally prohibited under Wisconsin law. "Dangerous weapon" means, among other things, "any firearm, loaded or unloaded" [s. 948.60 (1), Stats.]. A child who violates the prohibition against possession is subject to the provisions of ch. 48, Stats. (the Children's Code), unless jurisdiction is waived under s. 48.18, Stats. Violation of the prohibition is a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both).

Exceptions to the general prohibition against a child possessing or going armed with a firearm are:

- a. A child who possesses or is armed with a firearm when the firearm is being used in target practice under the supervision of an adult or in a course of instruction in the traditional and proper use of the firearm under the supervision of an adult.
- b. A child who is a member of the U.S. Armed Forces or National Guard and who possesses or is armed with a firearm in the line of duty.

c. A child who possesses or is armed with a firearm having a barrel 12 inches in length or longer and who is in compliance with ss. 29.226 and 29.227, Stats. [s. 948.60 (3), Stats.]. The latter statutory references refer to the Hunter Education and Firearm Safety Program established by the DNR. Under DNR hunting regulations, any person born on or after January 1, 1973 is required to obtain a certificate of accomplishment from the DNR before obtaining any approval authorizing hunting.

A person who intentionally sells, loans or gives a firearm to a child (under circumstances not related to the above exceptions) is guilty of a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both) [s. 948.60 (2) (b), Stats.]. The violation is a Class D felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both) if the child discharges the firearm and the discharge causes death to the child or another [s. 948.60 (2) (c), Stats.].

2. Safe Storage of Firearms

Any person who recklessly stores or leaves a loaded firearm within the reach or easy access of a child (any person under the age of 14 years) is guilty of a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both) if: (a) a child obtains the firearm without the lawful permission of his or her parent or guardian; and (b) the child discharges the firearm and the discharge causes bodily harm or death to the child or another [s. 948.55 (2), Stats.]. However, the person is not criminally liable under this provision if the violation involves an accident that occurs when the child is using the firearm in accordance with either:

a. Section 29.227, Stats., the hunter safety law that imposes restrictions on hunting and use of firearms by persons under 16 years of age; or

b. Section 946.60 (3), Stats., which recognizes certain exceptions to the general prohibition against children possessing or going armed with dangerous weapons, including firearms, as described under item 1, above.

Any person who recklessly stores or leaves a loaded firearm within the reach or easy access of a child under the age of 14 years is guilty of a Class C misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both) if: (a) a child obtains the firearm without the lawful permission of his or her parent or guardian; and (b) the child possesses or exhibits the firearm in a public place or in violation of s. 941.20, Stats. (endangering safety by use of a dangerous weapon) [s. 948.55 (3), Stats.].

The penalties for reckless storage of a loaded firearm described above do not apply under any of the following circumstances:

a. The firearm is stored or left in a securely locked box or container or in a location that a reasonable person would believe to be secure.

- b. The firearm is securely locked with a trigger lock.
- c. The firearm is left on the person's body or in such proximity to the person's body that he or she could retrieve it as easily and quickly as if carried on his or her body.
- d. The person is a peace officer or a member of the U.S. Armed Forces or National Guard and the child obtains the firearm during or incidental to the performance of the person's duties.
- e. The child obtains the firearm as a result of an illegal entry by any person.
- f. The child gains access to a loaded firearm and uses it in the lawful exercise of a privilege under s. 939.48, Stats. (self-defense and defense of others).
- g. The person who stores or leaves a loaded firearm reasonably believes that a child is not likely to be present where the firearm is stored or left.
- h. The firearm is rendered inoperable by the removal of an essential component of the firing mechanism such as the bolt in a breech-loading firearm [s. 948.55 (4), Stats.].

3. Sale and Distribution of Facsimile Firearms

The sale or distribution of facsimile or "look-alike" firearms is generally prohibited under state law [s. 941.297, Stats.]. A violation is a Class A forfeiture (punishable by a forfeiture not to exceed \$10,000). The state prohibition is based on current federal law.

"Look-alike firearm" is defined as:

[A]ny imitation of any original firearm that was manufactured, designed and produced after December 31, 1897, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. "Look-alike firearm" does not include any imitation, nonfiring, collector replica of an antique firearm developed prior to 1898, or any traditional beebee, paint-ball or pellet-firing air gun that expels a projectile through the force of air pressure.

The prohibition on the sale and distribution of look-alike firearms does not apply to a look-alike firearm that complies with the marking (generally, a blaze-orange plug inserted in the barrel or other authorized marking) or waiver requirements of federal law.

4. Restrictions on the Use of Facsimile Firearms

Wisconsin law provides various penalties for persons who use a toy or fake firearm for unlawful purposes. For example, the commission of robbery by use or threat of use of a dangerous weapon or "any article used or fashioned in a manner to lead the victim reasonably to believe that it is a dangerous weapon" is a Class B felony (punishable by imprisonment not to exceed 40 years) [s. 943.32 (2), Stats.]. Similarly, the statute proscribing assistance in prison escapes provides that it is a Class C felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both) to transfer to a prisoner any firearm or "any article used or fashioned in a manner to lead another person to believe it is a firearm" [s. 946.44 (1m), Stats.].

In addition to the various penalty provisions discussed above, a specific statute prohibits a person from carrying or displaying a "facsimile firearm" in a manner that could reasonably be expected to alarm, intimidate, threaten or terrify another person." A violation is a Class C forfeiture (punishable by a forfeiture not to exceed \$500) [s. 941.296 (2), Stats.].

"Facsimile firearm" is defined to mean "...any replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm," but not including an actual firearm [s. 941.296 (1), Stats.].

Exceptions to the general restrictions on carrying or displaying a facsimile firearm are:

- a. A peace officer acting in the discharge of his or her official duties.
- b. Any person engaged in military activities, sponsored by the state or federal government, acting in the discharge of his or her official duties.
- c. Any person who is on his or her own real property, in his or her own home or at his or her own fixed place of business.
- d. Any person who is on real property and acting with the consent of the owner of that property [s. 941.296 (3), Stats.].

III. IMPROPER OR UNSAFE USE OF FIREARMS

A. ENDANGERING SAFETY BY USE OF A FIREARM

1. General Prohibitions

The following are prohibited under Wisconsin law:

- a. Endangering another's safety by the negligent operation or handling of a firearm;
- b. Operating or going armed with a firearm while under the influence of an intoxicant;

c. Intentionally pointing a firearm at or toward another; or

d. While on the lands of another, discharging a firearm within 100 yards of any building (including a house trailer or mobile home) devoted to human occupancy that is situated on and attached to lands of another without the express permission of the owner or occupant of the building [s. 941.20 (1), Stats.].

A violation of any of the above is a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both).

The following conduct is also prohibited and is subject to a higher penalty than the above:

a. Intentionally discharging a firearm into a vehicle or building under circumstances in which the person should realize there might be a human being present in the vehicle or building; or

b. Setting a spring gun (presumably, a trap involving the use of a dangerous weapon, including a firearm) [s. 941.20 (2), Stats.].

A violation of any of the above is a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both).

2. Discharging a Firearm Near a Public Park

The discharge of a missile from a firearm or other weapon within 40 rods of any public park, square or enclosure owned or controlled by any municipality within this state and resorted to for recreation or pleasure, when such park, square or enclosure is wholly situated without the limits of such municipality, is punishable by imprisonment in the county jail for a period not exceeding 60 days or by a fine of not more than \$25 nor less than \$1 [s. 167.30, Stats.].

3. Discharging a Firearm at a Railroad Train

Current law also prohibits intentionally shooting a firearm at any portion of a railroad train, car, caboose or engine. A violation is a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both).

4. Discharging a Firearm From a Vehicle

The most heavily sanctioned conduct is the intentional discharge of a firearm from a vehicle while on a "highway," which includes all public ways and thoroughfares and bridges, or from a vehicle while on a vehicle parking lot that is open to the public under any of the following circumstances:

- a. The person discharges the firearm at or toward another.
- b. The person discharges the firearm at or toward any building or other vehicle.

Exceptions to the prohibition are recognized for a peace officer, member of the U.S. Armed Forces or member of the National Guard who, in the line of duty, discharges a firearm from a vehicle. Also, disabled persons, who obtain a permit to hunt from a standing vehicle, are exempt. A violation of the prohibition against the intentional discharge of a firearm from a vehicle is a Class C felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both) [s. 941.20 (3), Stats.].

B. PENALTIES ENHANCED BY USE OF A FIREARM

Current law authorizes the maximum term of imprisonment prescribed by law for a particular misdemeanor or felony to be increased (i.e., enhanced) by a specified time period if the person commits the crime while possessing, using or threatening to use a firearm or other dangerous weapon [s. 939.63 (1), Stats.]. Also, a person who commits a felony while possessing, using or threatening to use a firearm or other dangerous weapon must be sentenced to a statutorily prescribed minimum term of years in prison, unless the sentencing court otherwise provides [s. 939.63 (2), Stats.].

Also, under current law, higher penalties apply when certain crimes are committed with a firearm. Examples of such crimes include:

1. Armed Burglary

The crime of burglary is penalized as a Class C felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both) [s. 943.10 (1), Stats.]. If burglary is committed while armed with a firearm or other dangerous weapon, the violation is a Class B felony (punishable by imprisonment not to exceed 40 years) [s. 943.10 (2), Stats.].

2. Armed Robbery

The crime of robbery is penalized as a Class C felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both) [s. 943.32 (1), Stats.]. If robbery is committed by use or threat of use of a firearm or other dangerous weapon, the violation is a Class B felony (punishable by imprisonment not to exceed 40 years) [s. 943.32 (2), Stats.].

3. Taking a Vehicle

Intentionally taking and driving a vehicle without the consent of the owner is a Class D felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed five years, or

both) [s. 943.23 (2), Stats.]. Intentionally driving or operating a vehicle without the consent of the owner is a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both) [s. 943.23 (3), Stats.].

"Carjacking" involves the possession and use or threat of the use of a firearm or other dangerous weapon in the taking of another's vehicle. The penalty for this crime varies, depending on the degree of harm to the victim and other circumstances:

a. Basic "carjacking" offense. Any person who, while possessing a firearm or other dangerous weapon and by the use of, or threat of the use of, force or the weapon against another, intentionally takes a vehicle without the consent of the owner is guilty of a Class B felony (punishable by imprisonment not to exceed 40 years) [s. 943.23 (1g), Stats.].

b. Causing great bodily harm during carjacking. Any person who violates a, above, and causes great bodily harm to another is guilty of a Class B felony (punishable by imprisonment not to exceed 40 years) and must be sentenced to not less than 10 years of imprisonment, unless the court otherwise provides [s. 943.23 (1m), Stats.].

c. Causing death during carjacking. A person who violates a, above, and causes death to another is guilty of a Class A felony (punishable by mandatory life imprisonment) [s. 943.23 (1r), Stats.].

d. Passenger during carjacking. A person who knows that the owner does not consent to the driving or operation of a vehicle and intentionally accompanies, as a passenger in the vehicle, a person while he or she violates items a, b or c, above, or s. 943.23 (2) or (3), Stats., described above, is guilty of a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both).

C. POSSESSION OF A HANDGUN WITH ARMOR-PIERCING BULLETS

Possession or use of a handgun during the commission of certain crimes (any crime specified in chs. 939 to 948, Stats., the Criminal Code, or in ch. 161, Stats., the Controlled Substances Act) is a Class E felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both) under any of the following circumstances:

1. The handgun is loaded with an armor-piercing bullet or projectile or projectile core that may be fired from the handgun with a muzzle velocity of 1,500 feet per second or greater.

2. The person possesses an armor-piercing bullet capable of being fired from the handgun [s. 941.296, Stats.].

D. CARRYING A CONCEALED FIREARM

Any person, except a peace officer, who goes armed with a concealed firearm or other dangerous weapon is guilty of a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both) [s. 941.23, Stats.].

E. CARRYING A FIREARM IN A PUBLIC BUILDING

With certain exceptions relating to peace officers and military personnel, any person who goes armed with a firearm in any building owned or leased by the state or any political subdivision of the state is guilty of a Class B misdemeanor (punishable by a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both) [s. 941.235, Stats.].

F. CARRYING A HANDGUN WHERE ALCOHOL BEVERAGES MAY BE SOLD AND CONSUMED

An individual who intentionally goes armed with a handgun on any premises (excluding any area primarily used as a residence) that has a license or permit to sell alcohol beverages for consumption on those premises is guilty of a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both).

The general prohibition does not apply to the following persons and circumstances:

1. A peace officer.
2. A correctional officer or member of the U.S. Armed Forces or National Guard while going armed in the line of duty.
3. A private security person who is covered by a state license or permit and is going armed in the line of duty and with the consent of the licensee, owner or manager of the premises.
4. The possession of a handgun that is unloaded and encased in a vehicle in any parking lot area on the premises.
5. The possession or use of a handgun at a public or private gun or sportsmen's range or club.
6. The possession or use of a handgun on the premises if authorized for a specific event of limited duration by the owner or manager of the premises.
7. The possession of any handgun that is used for decoration if the handgun is encased, inoperable or secured in a locked condition.

8. The possession of a handgun in any portion of a hotel other than the portion of the hotel that is a tavern.

9. The possession of a handgun in any portion of a combination tavern and store devoted to other business if:

- a. The store is owned or operated by a federally licensed firearms dealer;
- b. The other business includes the sale of handguns; and
- c. The handgun is possessed in a place other than a tavern.

G. POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE

1. Possession

An individual may not knowingly possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone [s. 948.605 (2) (a), Stats.]. "School zone" means in or on the grounds of a school or within 1,000 feet from the grounds of a school.

The prohibition on the possession of a firearm in a school zone does not apply to the possession of a firearm:

- a. On private property not part of school grounds.
- b. If the individual possessing the firearm is licensed to do so by a political subdivision in which the school zone is located and the law of the political subdivision requires that, before an individual may obtain such a license, the law enforcement authorities of the political subdivision must verify that the individual is qualified under law to receive the license.
- c. That is not loaded and is:
 - (1) Encased; or
 - (2) In a locked firearms rack that is on a motor vehicle.
- d. By an individual for use in a program approved by a school in the school zone.
- e. By an individual, in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual.
- f. By a law enforcement officer acting in his or her official capacity.

g. That is unloaded and is possessed by an individual while traversing school grounds for the purpose of gaining access to public or private lands open to hunting, if the entry on school grounds is authorized by school authorities [s. 948.605 (2) (b), Stats.].

A violation of the above is a Class A misdemeanor (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both) [s. 948.605 (2) (a) (intro.), Stats.].

2. Discharge

An individual may not knowingly, or with reckless disregard for the safety of another, discharge or attempt to discharge a firearm at a place the individual knows is a school zone [s. 948.605 (3) (a), Stats.].

The prohibition on the discharge of, or the attempt to discharge, a firearm in a school zone does not apply to the discharge of a firearm:

- a. On private property not part of school grounds;
- b. As part of a program approved by a school in the school zone, by an individual who is participating in the program;
- c. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual; or
- d. By a law enforcement officer acting in his or her official capacity [s. 948.605 (3) (b), Stats.].

A violation of the above is a Class D felony (punishable by a fine not to exceed \$10,000 or imprisonment not to exceed two years, or both) [s. 948.605 (3) (a) (intro.), Stats.]. A court is required to impose any sentence for a violation of the gun-free school zone law consecutively to (i.e., in addition to) any other sentence [s. 948.605 (4), Stats.].

H. SAFE USE AND TRANSPORTATION OF FIREARMS IN CONNECTION WITH MOTOR VEHICLES, MOTORBOATS AND AIRCRAFT AND IN THE VICINITY OF ROADWAYS

The transport, possession or placement of any firearm in a motor vehicle, motorboat or aircraft is generally prohibited, unless the firearm is unloaded and encased [s. 167.31, Stats.]. The loading or discharging of a firearm in or from a vehicle or aircraft and the discharging of a firearm from or across a highway or within 50 feet of the center of a roadway are also prohibited. Violators on land and water are subject to a forfeiture not exceeding \$100 and aircraft violators may be fined up to \$1,000 or imprisoned up to 90 days, or both. In addition, all violators must pay a weapons assessment equal to 75% of the fine or forfeiture imposed.

The above prohibitions do not apply to any of the following who in the line of duty place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within 50 feet of the center of a roadway:

1. A peace officer.
2. A member of the U.S. Armed Forces.
3. A member of the National Guard.

Also excepted from the above prohibitions are:

1. Holders of a scientific collector permit using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
2. Holders of a hunting permit for persons with certain disabilities who are hunting from a stationary vehicle, subject to specified conditions [s. 167.31 (4), Stats.].

IV. DISPOSITION OF SEIZED FIREARMS OR AMMUNITION

Firearms or ammunition that are seized pursuant to a criminal investigation or are abandoned and unclaimed must be disposed of by the city, village, town, county or other custodian in accordance with various procedures specified by statute or, in the case of the City of Milwaukee, by ordinance or resolution [ss. 66.28 (4) and 968.20, Stats.].

In general, if the firearm or ammunition is not required for evidence or use in further investigation and has not been disposed of pursuant to a court order at the completion of a criminal action or proceeding, the firearm or ammunition may be returned to its rightful owner. If the firearm or ammunition poses a safety hazard, it must be disposed of safely. If none of these circumstances applies, the firearm or ammunition, except a firearm used in the commission of a homicide or any handgun, may be retained by the city, village, town or county or other custodian, which may authorize its use by a law enforcement agency. If the firearm or ammunition is not so retained, the custodian is required to ship it to the State Crime Laboratories.

A person designated by the DOJ is authorized to destroy any firearm or ammunition that the Laboratories cannot use or arrange for the exchange of the firearm or ammunition with other public agencies. Instead of destruction, shoulder weapons for which the Laboratories have no use are required to be turned over to the DNR for sale to the public [s. 968.20 (3) and (4), Stats.].

SPH:las;kja