



**PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION**

1     **AN ACT** *to renumber and amend* 29.091 and 941.23; *to amend* 23.33 (3) (e),  
2           29.089 (2) and 29.621 (4); and *to create* 29.091 (2), 29.621 (6), 165.25 (12),  
3           167.31 (4) (ar), 175.60, 941.23 (1) (b) and 948.605 (2) (b) 9. and (3) (b) 5. of the  
4           statutes; **relating to:** certificates to carry concealed handguns based on  
5           training, possessing or transporting a handgun under certain circumstances,  
6           requiring the exercise of rule-making authority, and proving a penalty.

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***Analysis by the Legislative Reference Bureau***

In general, under current Wisconsin law, no person may go armed with a concealed and dangerous weapon. The “going armed with” language includes cases in which a person is carrying a concealed weapon but has not gone and is not going anywhere with it and cases in which a weapon is readily accessible to a person in a car. A person who violates the prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both. This prohibition has many exceptions. First, Wisconsin Statutes expressly exempt law enforcement officers. Second, under *State v. Hamdan*, 2003 WI 113, 264 Wis. 2d 433, this prohibition is unconstitutional if applied to a person carrying a concealed weapon at his or her own business when: 1) the person’s interest in carrying a concealed weapon substantially outweighs the state’s interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. In *Hamdan*, the court also

indicated that the constitutional right to keep and bear arms for security allows a person to carry a concealed weapon under certain circumstances in his or her own home. Finally, under federal law, qualified law enforcement officers and qualified retired law enforcement officers may carry concealed firearms that have been shipped or transported in interstate or foreign commerce, regardless of any state prohibition.

Under this bill, the statutory prohibition against going armed with a concealed handgun does not apply to an individual who holds a certificate indicating that he or she has undergone at least two hours of training on handgun use if the training was conducted by an instructor certified by a national or state organization that certifies handgun training instructors.

Current Wisconsin law also prohibits, with certain exceptions, going armed with or possessing a firearm in a state park or wildlife refuge or within 1,000 feet of the grounds of a school. In addition, current Wisconsin law prohibits, with certain exceptions, carrying a firearm in most vehicles unless the firearm is unloaded and encased and loading or discharging a firearm in or from a vehicle. An individual who violates one of these prohibitions is subject to civil or criminal penalties. This bill generally allows an individual who holds a certificate to possess a handgun in a vehicle, a state park, or a wildlife refuge and within 1,000 feet of the grounds of a school; under the bill, however, an individual who holds a certificate may not possess a handgun in or on the grounds of a school unless the school board or the governing body of the school gives the individual written permission.

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

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

1           **SECTION 1.** 23.33 (3) (e) of the statutes is amended to read:

2           23.33 **(3)** (e) With any firearm in his or her possession unless it is unloaded and  
3 enclosed in a carrying case, or any bow unless it is unstrung or enclosed in a carrying  
4 case. The prohibition in this paragraph, as it relates to firearms, does not apply to  
5 an individual who has a certificate, as defined in s. 175.60 (1) (b), if the firearm is a  
6 handgun, as defined in s. 175.60 (1) (c).

7           **SECTION 2.** 29.089 (2) of the statutes is amended to read:

8           29.089 **(2)** Except as provided in sub. (3), no person may have in his or her  
9 possession or under his or her control a firearm on land located in state parks or state

1 fish hatcheries unless the firearm is unloaded and enclosed within a carrying case.  
2 The prohibition in this subsection does not apply to an individual who has a  
3 certificate, as defined in s. 175.60 (1) (b), if the firearm is a handgun, as defined in  
4 s. 175.60 (1) (c).

5 **SECTION 3.** 29.091 of the statutes is renumbered 29.091 (1) and amended to  
6 read:

7 29.091 (1) No person may hunt or trap within any wildlife refuge established  
8 under s. 23.09 (2) (b) or 29.621 (1), or, except as provided in sub. (2), have possession  
9 or control of any gun, firearm, bow or crossbow unless the gun or firearm is unloaded,  
10 the bow or crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed  
11 within a carrying case. The taking of predatory game birds and animals shall be done  
12 as the department directs. All state wildlife refuge boundary lines shall be marked  
13 by posts placed at intervals of not over 500 feet and bearing signs with the words  
14 “Wisconsin Wildlife Refuge”.

15 **SECTION 4.** 29.091 (2) of the statutes is created to read:

16 29.091 (2) The prohibition in sub. (1), as it relates to the possession or control  
17 of a loaded or unencased gun or firearm within a refuge established under s. 23.09  
18 (2) (b), does not apply to an individual who has a certificate, as defined in s. 175.60  
19 (1) (b), if the gun or firearm is a handgun, as defined in s. 175.60 (1) (c).

20 **SECTION 5.** 29.621 (4) of the statutes is amended to read:

21 29.621 (4) PROTECTION. Except as provided in s. 29.091, no owner of a wildlife  
22 refuge, and no other person, may hunt or trap within the boundaries of any wildlife  
23 refuge or have in his or her possession or under his or her control in the wildlife refuge  
24 a gun, firearm, bow or crossbow, unless the gun or firearm is unloaded, the bow or  
25 crossbow is unstrung and the gun, firearm, bow or crossbow is enclosed within a

1 carrying case. ~~Nothing in this section may prohibit, prevent or interfere with the~~  
2 ~~department in the destruction of injurious animals. This subsection, as it relates to~~  
3 ~~the possession or control of a loaded or unencased firearm, does not apply to an~~  
4 ~~individual who has a certificate, as defined in s. 175.60 (1) (b), if the firearm is a~~  
5 ~~handgun, as defined in s. 175.60 (1) (c).~~

6 **SECTION 6.** 29.621 (6) of the statutes is created to read:

7 29.621 (6) INJURIOUS ANIMALS. Nothing in this section may prohibit, prevent,  
8 or interfere with the department in the destruction of injurious animals.

9 **SECTION 7.** 165.25 (12) of the statutes is created to read:

10 165.25 (12) RULES REGARDING RECIPROCITY AND TRAINING FOR CONCEALED  
11 HANDGUNS. Promulgate by rule a list of states that issue a permit, license, approval,  
12 certificate, or other authorization to carry a concealed handgun if the permit, license,  
13 approval, certificate, or other authorization requires, or designates that the holder  
14 chose to submit to, at least 2 hours of handgun training that is comparable to the  
15 training required under s. 175.60 (3) (b) for a certificate issued by this state under  
16 s. 175.60.

17 **SECTION 8.** 167.31 (4) (ar) of the statutes is created to read:

18 167.31 (4) (ar) The restrictions under subs. (2) (a), (b), and (c) and (3) (a) and  
19 (b), as they relate to firearms, do not apply to an individual who has a certificate, as  
20 defined in s. 175.60 (1) (b), if the firearm is a handgun, as defined in s. 175.60 (1) (c).

21 **SECTION 9.** 175.60 of the statutes is created to read:

22 **175.60 Training certificates to allow individuals to carry concealed**  
23 **handguns. (1) DEFINITIONS.** In this section:

24 (a) “Carry” means to go armed with.

1           (b) “Certificate” means a certificate issued under this section or a certificate  
2 issued by another state that appears in the list promulgated by the department of  
3 justice under s. 165.25 (12).

4           (c) “Handgun” means any weapon designed or redesigned, or made or remade,  
5 and intended to be fired while held in one hand and to use the energy of an explosive  
6 to expel a projectile through a smooth or rifled bore. “Handgun” does not include a  
7 machine gun, as defined in s. 941.27 (1), a short-barreled rifle, as defined in s. 941.28  
8 (1) (b), or a short-barreled shotgun, as defined in s. 941.28 (1) (c).

9           (d) “Photographic identification card” means an operator’s license issued under  
10 ch. 343, an identification card issued under s. 343.50, or another identification card  
11 issued by the federal government or a state government that is tamper proof.

12           **(2) SCOPE OF CERTIFICATE.** (a) An individual who holds a certificate may carry  
13 a concealed handgun anywhere in this state except as provided under s. 941.235,  
14 941.237, and 948.605.

15           (b) A certificate issued under this section does not expire, but an individual who  
16 loses a certificate issued under this section or whose certificate issued under this  
17 section is damaged so that the name on the certificate is not legible must complete  
18 another training course as described under sub. (3) (b).

19           **(3) CERTIFICATION.** A certificate is valid if all of the following apply:

20           (a) The individual who holds the certificate is at least 21 years old.

21           (b) The certificate is issued after the individual completes a training course  
22 that is at least 2 hours long and that is conducted by an instructor certified by a  
23 national or state organization that certifies handgun training instructors.

1           (c) 1. The individual who holds the certificate is not prohibited under federal  
2 law from possessing a firearm that has been transported in interstate or foreign  
3 commerce.

4           2. The individual who holds the certificate is not prohibited from possessing a  
5 firearm under s. 941.29.

6           **(4) POSSESSION AND DISPLAY OF CERTIFICATION.** (a) Unless an individual is  
7 carrying a concealed handgun in his or her own dwelling or place of business or on  
8 land that he or she owns, leases, or legally occupies, an individual shall have with  
9 him or her a certificate and a photographic identification card that contains the same  
10 name as the certificate at all times during which he or she is carrying a concealed  
11 handgun.

12           (b) Unless an individual is carrying a concealed handgun in his or her own  
13 dwelling or place of business or on land that he or she owns, leases, or legally  
14 occupies, an individual who is carrying a concealed handgun shall display his or her  
15 certificate and photographic identification card that contains the same name as the  
16 certificate to a law enforcement officer upon the request of the law enforcement  
17 officer.

18           **(5) IMMUNITY.** When acting in good faith under this section, an entity providing  
19 handgun training to comply with the requirements under sub. (3) (b) and its  
20 employees are immune from civil and criminal liability arising from any act or  
21 omission that is related to that training.

22           **(6) PENALTY.** An individual who violates sub. (4) has 10 days to display a  
23 certificate. If the individual possesses a certificate but fails to display the certificate  
24 within 10 days, he or she may be subject to a \$50 forfeiture.

1           **SECTION 10.** 941.23 of the statutes is renumbered 941.23 (1) (intro.) and  
2 amended to read:

3           941.23 (1) (intro.) Any person ~~except a peace officer~~ who goes armed with a  
4 concealed and dangerous weapon is guilty of a Class A misdemeanor.  
5 Notwithstanding This prohibition does not apply to the following:

6           (a) A peace officer, but, notwithstanding s. 939.22 (22), for purposes of this  
7 section paragraph, peace officer does not include a commission warden who is not a  
8 state-certified commission warden.

9           **SECTION 11.** 941.23 (1) (b) of the statutes is created to read:

10           941.23 (1) (b) An individual who has a certificate, as defined in s. 175.60 (1) (b),  
11 who is going armed with a handgun, as defined in s. 175.60 (1) (c).

12           **SECTION 12.** 948.605 (2) (b) 9. and (3) (b) 5. of the statutes are created to read:

13           948.605 (2) (b) 9. If the firearm is a handgun, as defined in s. 175.60 (1) (c), and  
14 the individual who possesses it has a certificate, as defined in s. 175.60 (1) (b), if the  
15 possession is:

16           a. At any location in the school zone that is not in or on the grounds of a school.

17           b. In or on the grounds of a school if the individual has the written permission  
18 of the school board or the governing body of the school.

19           **(3) (b) 5.** That is a handgun, as defined in s. 175.60 (1) (c), by an individual who  
20 has a certificate, as defined in s. 175.60 (1) (b), if the discharge or attempt is:

21           a. At any location in the school zone that is not in or on the grounds of a school.

22           b. In or on the grounds of a school if the individual has the written permission  
23 of the school board or the governing body of the school to possess the handgun in or  
24 on the grounds of the school.

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(END)