

Top 10 Concealed Carry Questions and Answers

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Practice Area: Health Law & Business and Corporate Law & Labor and Employment & Insurance Coverage and Risk Management & School Law & County and Municipal Governance & Litigation and Risk Management & Strategic Risk and Crisis Management

1. What is the Concealed Carry Statute?

The concealed carry statute (2011 Wisconsin Act 35) allows a properly qualified and licensed Wisconsin resident to carry a concealed weapon (defined as a handgun, "electric weapon", billy club, or knife other than a switchblade) anywhere except on school grounds and in certain mental health facilities, government offices, courthouses, police stations, penal institutions and airports beyond security checkpoints.

2. When Does It Take Effect?

November 1, 2011.

3. How Do I Find A Copy?

<http://legis.wisconsin.gov/lrb/pubs/wb/12wb3.pdf>. After its effective date, most of the concealed carry law can be found at Wis. Stat. §175.60 and in amendments to Wisconsin's criminal trespass statute (Wis. Stat. §943.13).

4. Can Employers Restrict Their Employees' Right To Carry A Concealed Weapon?

Yes. Employers can prohibit a concealed carry licensee/employee from carrying a concealed weapon, or a particular type of concealed weapon, in the course of employment, except "in the licensee's . . . own motor vehicle, regardless of whether the motor vehicle is used in the course of employment or whether the motor vehicle is driven or parked on property used by the employer".

5. Can Businesses Restrict The Right Of Customers And Others To Carry A Concealed Weapon On The Premises?

Yes. Businesses can prohibit a concealed carry licensee from carrying a firearm on the premises.

6. How Do Businesses Notify Their Employees, Customers And Others That Concealed Weapons Are Prohibited?

Signs must be prominently posted near all common entrances to buildings and, if applicable, near all probable points of access to "grounds". In the absence of posted signs prohibiting weapons, concealed carry licensees can lawfully carry weapons on the premises.

7. What Should The Signs Look Like?

At this point, only the size of the signs (at least 5 inches by 7 inches) and their location (near all common entrances and access points) have been prescribed. The statute does not mandate the color of the signs, the size of the lettering, or the precise language required. It also does not allow, prohibit or recommend any symbols. "No Weapons Allowed", or language to that effect, is probably sufficient.

8. Should Employers Modify Policies And Procedures Relating To Weapons?

The law doesn't require it, but employers should review and amend written employee policies, procedures, handbooks and similar materials relating to weapons to reflect any changes in company policy prompted by the concealed carry statute. For example, if an employer chooses to prohibit concealed carry with appropriate signage, written policies might:

- Reinforce the prohibition and explain any disciplinary consequences for a violation;
- Address concealed carry in the course of employment while licensees are away from the employer's premises;
- Incorporate the statutory exception allowing concealed carry in the licensee's "own motor vehicle";
- Require that weapons in a licensee's own vehicle be stored in a locked container;
- Prohibit concealed carry in company-owned vehicles.

9. How Will Weapons Be Prohibited In Nonresidential Buildings With Multiple Tenants?

The right to prohibit firearms on nonresidential properties may be exercised by the owner of the building in common areas, and by occupants in portions of the building leased to them.

10. How Does Statutory Immunity Work?

As incentive to allow concealed carry, the legislature granted to employers and businesses statutory immunity from any liability arising from the decision to not prohibit concealed carry.

- Statutory immunity from liability is alluring, but there may be costs associated with allowing concealed carry, including employees' and third parties' potential negative perception of the safety of the premises and disinclination to work or visit there. On the other hand, allowing concealed carry may be beneficial to some businesses and employers.
- Insurance costs may be a factor. At this juncture we do not know whether a decision to prohibit weapons will make insurance more or less expensive than it will be if concealed weapons are permitted.
- The unavailability of statutory immunity for those who prohibit concealed carry does not mean those businesses are automatically liable if a concealed weapon causes injury or damage. If a concealed weapon causes injury despite proper prohibitory signage, a business should not be liable absent proof of fault or wrongdoing, as has always been the case. Proof that the business conscientiously prohibited concealed weapons should assist the defense.

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