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Concealed Carry Issues for Property Owners: To Have a Sign or to Not Have a Sign

Property owners/occupants of all types across the State of Wisconsin are being faced with the decision of: if, whether and/or how to prohibit concealed carry of a weapon upon their property when Wisconsin's Concealed Carry law goes into effect on November 1, 2011. The new law does permit property owners/occupants and employers to prohibit concealed carry. Property owners/occupants and employers who do not prohibit the concealed carry of a weapon will receive immunity from liability associated with that decision. This e-alert will identify the competing interests of property owners/occupants and employers that must be considered before making the decision of whether to have a sign or to not have a sign prohibiting concealed carry on their property.

2011 Wisconsin Act 35 was enacted July 8, 2011 and published July 22, 2011. It will go into effect on November 1, 2011. Passing of the law allows the State of Wisconsin to line up with 48 other states that permit the concealed carry of a weapon—of course, with certain limitations. Wisconsin's concealed carry law will require that qualified individuals be 21 years old, pass background checks, complete training and obtain a license. It also specifies various buildings where concealed carry is prohibited, such as county, state or federal courthouses and police stations. For all other properties, certain notice and signage requirements are necessary to prohibit concealed carry.

Generally, to prohibit concealed carry within a building, the owner/occupant or employer must give proper notice to persons prior to entering the building. Having an appropriate sign properly posted that prohibits concealed carry subjects a violator to a claim for trespass, a Class B forfeiture. Not prohibiting concealed carry provides the property owner/occupant or employer the benefit of immunity from any liability arising from its decision to not prohibit concealed carry. This distinction suggests that property owners/occupants who elect to prohibit concealed carry and who properly display appropriate signage could be at risk of liability for violations of their policy, notwithstanding the fact that the law does not impose express obligations on such property owners/occupants or employers to take measures to assure compliance with the prohibition, nor does it indicate what form such liability might take. Presumably no additional liability risk is incurred, simply the same potential liability risk that existed before enactment of the new law.

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To Have a Sign

The following signage requirements must be met to achieve the notice requirements to effectively prohibit concealed carry by use of signage:

Single-family residences and related grounds:

- Signs do not appear to be required for the residence as well as the related grounds, suggesting verbal notice is sufficient.

Residences (other than single-family) and related grounds:

- Must be posted by the owner of the residential building in all common areas of the residential building.
- Signs do not appear to be required for a residence in a residential building, suggesting verbal notice is sufficient for such residence.
- Occupants of a residence are exempt from the trespass laws and therefore cannot be restricted from concealed carry within his/her residence by the posting of signage under the concealed carry law. Landlords should modify their leases and/or building rules to restrict firearms and/or weapons rather than relying on the posting of signage to prohibit concealed carry; however, it is unclear if such restrictions would be enforceable.
- Must be at least 5 inches by 7 inches.
- Must be posted in a prominent place near all entrances to the part of the building in which the restriction applies or near all probable access points to the grounds where the restriction applies and any individual entering the building or the grounds can be reasonably expected to see the sign.
- Must clearly state prohibition.
- Does not apply to weapons stored in a vehicle parked in a parking area on such grounds.

Non-residential buildings:

- Must be posted by the owner/occupant, the state or a local governmental unit, or a university or a college, as applicable.
- Must be at least 5 inches by 7 inches.
- Must be posted in a prominent place near all entrances to the part of the building in which the restriction applies or near all probable access points to the grounds where the restriction applies and any individual entering the building or the grounds can be reasonably expected to see the sign.
- Must clearly state prohibition.

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- Does not appear to apply to grounds for property owned by state or local governmental units or a university or college.
- Does not apply to weapons stored in a vehicle parked in the parking area on prohibited grounds in the case of property not owned by state or local governmental units or a university or college.

Special events:

- Shall be posted by organizer.
- Must be at least 5 inches by 7 inches.
- Must be posted in a prominent place near all entrances to the special event and any individual attending the special event can be reasonably expected to see.

Employer restrictions:

- Unclear whether signage is required with respect to prohibition on concealed carry during any part of the course of employment. We recommend signage as required for non-residential buildings, if employer wishes to restrict.
- Clear written policy regarding such prohibition recommended, if employer wishes to restrict.
- Does not apply to weapons stored in the employee's own vehicle even if the vehicle is used in the course of the employee's employment.

To Not Have a Sign

Owners/occupants and employers who do not elect to prohibit concealed carry enjoy immunity from liability arising from its decision.

Please contact Melanie Lee at 608-229-2227 or your Reinhart attorney if you have any further questions regarding Wisconsin's concealed carry law and its impact on property owners.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.

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