



Legislation Text

File #: 090222, Version: 0

090222
ORIGINAL

ALD. DONOVAN

An ordinance relating to revisions of firearm regulation to comply with Wisconsin law.

63-11 rc

81-40 rp

92-2-2-e am

105-34-1-b rc

105-34-1-c rc

105-34-1-d cr

105-34-1-e cr

105-34-1-f cr

105-34-2-a am

105-43 rp

105-43.2 am

312-13-7 am

The Wisconsin legislature enacted s. 66.0409, Wis. Stats., effective November 18, 1995. This legislation limits the authority of political subdivisions to enact ordinances that are more stringent than state statutes in the regulation of firearms, firearm parts, ammunition and reloader components. In an opinion dated March 13, 2009, the city attorney identifies those provisions of the ordinances that are no longer enforceable under Wisconsin law.

This ordinance amends, repeals and recreates ordinances consistent with the opinion of the city attorney including ordinances addressing the possession of dangerous weapons in county parks within the city limits, licensing of gun shows, carrying dangerous weapons generally, prohibiting the carrying of firearms in public buildings, upon Class "B" licensed premises and in school zones, waiting periods for the transfer of firearms, and carrying of dangerous weapons by auxiliary police. The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 63-11 of the code is repealed and recreated to read:

63-11. Dangerous Weapons. 1. No person may possess any airgun, BB gun, spring gun, bow with arrows, crossbow, sling or slingshot in any park or parkway except in an area designated by the director for target shooting or practice, without the written permit of the director.

2. No person shall discharge a firearm in any park or parkway.

Part 2. Section 81-40 of the code is repealed.

Part 3. Section 92-2-2-e of the code is amended to read:

92-2. Secondhand Dealer's License.

2. LICENSE REQUIRED; EXCEPTION.

e. This section does not apply to transactions at occasional garage or yard sales, estate sales, coin, gem, stamp or antique shows, >>gun shows,<< conventions or auctions.

Part 4. Section 105-34-1-b and c of the code is repealed and recreated to read:

105-34. Carrying Dangerous Weapons.

1. PROHIBITED.

b. It shall be unlawful for any person to go armed with a dangerous weapon other than a firearm within the city, unless such dangerous weapon is secured or enclosed in a case designed to prevent unauthorized access to the weapon. This paragraph does not apply to any officer, agent or employee of this or any other state or the United States, the organized militia of this or any other state, or law enforcement officers as defined in s. 165.85(2), Wis. Stats., to the extent that any such person possesses an electronic control device which said person is authorized to acquire or possess while acting within the scope of his or her official duties.

c. It shall be unlawful for any person other than an officer, agent or employee of this or any other state or the United States, the organized militia of this or any other state, or law enforcement officers as defined in s. 165.85(2), Wis. Stats., engaged in his or her official duties, to carry a firearm in any building owned or leased by the state of Wisconsin, or in any building owned or leased by any political subdivision within the city.

Part 5. Section 105-34-1-d to f of the code is created to read:

d. It shall be unlawful for any person other than an officer, agent or employee of this or any other state or the United States, the organized militia of this or any other state, or law enforcement officers as defined in s. 165.85(2), Wis. Stats., engaged in his or her official duties, to carry a handgun on any premises where the sale and consumption of alcohol beverages is licensed or permitted.

e. It shall be unlawful for any person other than an officer, agent or employee of this or any other state or the United States, the organized militia of this or any other state, or law enforcement officers as defined in s. 165.85(2), Wis. Stats., a private security person meeting the qualifications of s. 167.31(4)(a)4, Wis. Stats., or licensed or permitted scientist as described in s. 167.31(4)(b), engaged in his or her official duties, to place, possess or transport a firearm, in or on a motor boat with the motor running, or in or on a vehicle as defined in s. 167.31, Wis. Stats., unless the firearm is unloaded and encased in a carrying case.

f. It shall be unlawful for any person other than an officer, agent or employee of this or any other state or the United States, the organized militia of this or any other state, or law enforcement officers as defined in s. 165.85(2), Wis. Stats., engaged in his or her official duties, to carry a firearm upon the grounds, or within 1000 feet of the grounds of a public, parochial or private school providing an educational program for one or more grades between grades 1 and 12 and which is commonly

known as an elementary school, middle school, junior high school senior high school or high school. This paragraph does not apply to any of the following:

- f-1. The possession of a firearm on private property that is not part of school grounds.
- f-2. The possession of a firearm that is not loaded and is encased or is locked in a firearms rack on a motor vehicle.
- f-3. The possession of a firearm for use in a program approved by the school.
- f-4. The possession of a firearm in accordance with a contract entered into between the school and an individual or the individual's employer.
- f-5. The possession of a firearm that is unloaded and is possessed by an individual while traversing school grounds for the purpose of gaining access to private or public lands open to hunting and if entry on school grounds is authorized by school authorities.
- f-6. The possession of a firearm is for purposes of lawful hunting in a school forest authorized by the school board.

Part 6. Section 105-34-2-a of the code is amended to read:

2. DEFINITIONS.

a. "Dangerous Weapon" means any device designed as a weapon and capable of producing death or great bodily harm, any electric weapon as defined in s. 941.295(4), Wis. Stats., >>and any similar electronic control device,<<or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm. The following are dangerous per se: blackjack, billy, standclub, sandbag, bludgeon, nunchaku sticks, throwing stars, sling shot, slung shot, any instrument which impels a missile by compressed air, spring or other means, any weapon in which loaded or blank cartridges are used, crossknuckles, knuckles of any metal, barbed or blade type arrowhead, bowie knife, dirk knife, dirk, dagger, switch blade knife or any knife which has a blade that may be drawn without the necessity of contact with the blade itself or is automatically opened by pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straight-edge razor or any other knife having a blade 3 inches or longer. Instruments not herein specifically enumerated are none the less considered weapons when they fall within the terms of this definition.

Part 7. Section 105-43 of the code is repealed.

Part 8. Section 105-43.2 of the code is amended to read:

105-43.2. Waiting Period Required for Transfer of a Handgun. No dangerous weapon dealer shall transfer possession of any handgun to any person other than a dealer for [[7 days]]>>48 hours <<following application for sale or transfer of such handgun >>unless the period for receipt of a confirmation number from the Wisconsin department of justice is extended as provided in s. 175.35 (2g)(c)4.c, Wis Stats., and then not until a confirmation number has been received or the extended period has expired, which first occurs<<.

Part 9. Section 312-13-7 of the code is amended to read:

312-13. Auxiliary Police Service.

7. CARRYING OF WEAPONS PROHIBITED. No volunteer auxiliary ~~[[policeman]]~~ >> police personnel << shall, while on duty or in any training exercise, carry or use any weapon~~[[or firearm]]~~>>, except as authorized by the chief of police<<.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB09195-3

RLW

6/10/2009

Clerical correction -- sections affected -- jro -- 07/22/09