



Wisconsin's Concealed Carry Law

Frequently Asked Questions (FAQ) on Concealed Carry from WALA, the Wisconsin Assisted Living Association For Assisted Living Providers

Wisconsin's concealed carry weapons law became effective November 1, 2011.

WALA, the Wisconsin Assisted Living Association, has prepared this Frequently-Asked-Questions (FAQ) document to provide information to assisted living facilities in the state of Wisconsin on how the concealed carry law might affect them as providers.

WALA DISCLAIMER: This document does not constitute legal advice. WALA makes no representation as to the accuracy of the information in this document and encourages you to seek your own legal counsel as needed.

Q: *As an assisted living provider, do I have the power to prohibit weapons in my facility by employees, visitors and residents?*

A: Generally, yes. An assisted living provider may certainly prohibit employees and visitors from bringing weapons into its facility. WALA believes that residents, too, may be prohibited from doing so, particularly because assisted living facilities are classified as nonresidential buildings under the concealed carry law (see FAQ #4 in this document).

"The law permits certain owners and occupants of property to prohibit persons from carrying a concealed firearm [or any type of weapon concealed or otherwise] in or on the property. A person may be subject to a Class B forfeiture if he or she carries a firearm on the property after being notified not to remain on the property or remain with a specific type of firearm. In the latter case, a property owner can prohibit a person from possessing a specific type of firearm on their property or any firearm. *Wis. Stat. §§ [943.13\(1m\)\(b\)](#), [943.13\(1m\)\(c\)2](#).* In addition, property owners generally possess the right to exclude others from their property." (From the "Wisconsin Department of Justice Concealed Carry Weapon (CCW) FAQ")

Q: *Can I prohibit my employees from carrying concealed weapons on the job?*

A: Generally, yes. "An employer may prohibit an employee from carrying a concealed weapon or a particular type of concealed weapon in the course of the employee's employment or during any part of the course of the employee's employment. *Wis. Stat. § [175.60\(15m\)\(a\)](#).*" (From the "Wisconsin Department of Justice CCW FAQ")

- However, a licensed employee who uses his or her personal vehicle during the course of employment has the right to carry a permissible concealed weapon in his or her personal vehicle as discussed in the next FAQ.

Q: Does that prohibition apply to an employee's car or a facility's parking lot?

A: No. "An employer may not prohibit a person with a CCW license, as a condition of employment, from carrying a concealed weapon, a particular type of concealed weapon, or ammunition or from storing a weapon, a particular type of weapon, or ammunition 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. *Wis. Stat. § [175.60\(15m\)\(b\).](#)*" (From the "Wisconsin Department of Justice CCW FAQ")

Q: Are AL (Assisted Living facilities - CBRFs, AFHs and RCACs) classified as nonresidential buildings for the purpose of concealed carry?

A: Yes. "It is unlawful for any person to enter or remain in any part of a nonresidential building, grounds of a nonresidential building, or land that the person does not own or occupy after the owner of the building, grounds, or land, if that part of the building, grounds, or land has not been leased to another person, or the occupant of that part of the building, grounds, or land has notified the person not to enter or remain in that part of the building, grounds, or land while carrying a firearm. This provision does **not** apply to a part of a building, grounds, or land occupied by the state or by a local unit of government; to a privately or publicly owned building on the grounds of a university or college; or to the grounds of or land owned or occupied by a university or college. In addition, if the firearm is in a vehicle driven or parked in a parking facility, this provision does not apply to any part of a building, grounds, or land used as a parking facility. **The law specifies that 'nonresidential building' includes a nursing home, a community-based residential facility, a residential care apartment complex, an adult family home, and a hospice.**" *Wis. Stat. § 943.13(1m)(c)2 and § 943.13(1e)(cm).*" (From the "Wisconsin Department of Justice CCW FAQ") (WALA emphasis)

Q: If an employer allows the carrying of concealed weapons and someone is injured or killed as a result of a license holder using the weapon, is the employer legally liable?

A: Generally, no. However, there may be circumstances where such liability may exist and a discussion of such situations is beyond the scope of this brief summary. The law provides:

- A person who does not prohibit an individual from carrying a concealed weapon on property that the person owns or occupies is immune from any liability arising from his or her decision. *Wis. Stat. § [175.60\(21\)\(b\).](#)*
- An employer who does not prohibit one or more employees from carrying a concealed weapon is immune from any liability arising from that decision. *Wis. Stat. § [175.60\(21\)\(c\).](#)* (All from the "Wisconsin Department of Justice CCW FAQ")
- In addition, WALA recommends that you consult with your attorney and insurance carrier. (WALA best practice.)

Q: If a private business or property owner allows the carrying of concealed weapons and someone is injured or killed as a result of a license holder using the weapon, is the employer or property owner legally liable?

A: Generally, no. However, there may be circumstances where such liability may exist and a discussion of such situations is beyond the scope of this brief summary. The law provides:

- A person who does not prohibit an individual from carrying a concealed weapon on property that the person owns or occupies is immune from any liability arising from his or her decision. *Wis. Stat. § [175.60\(21\)\(b\)](#).*
- An employer who does not prohibit one or more employees from carrying a concealed weapon is immune from any liability arising from that decision. *Wis. Stat. § [175.60\(21\)\(c\)](#). (All from the "Wisconsin Department of Justice CCW FAQ")*
- In addition, WALA recommends that you consult with your attorney and insurance carrier. (*WALA best practice.*)

Q: Does that mean that the employer or private business owner or property owner is not liable under any circumstances?

A: No. The employer or private business owner or property owner may still be liable for certain types of claims. There are two types of claims for which employers probably will not have immunity: 1) worker's compensation claims and 2) OSHA claims.

- WALA recommends that you consult with your attorney and insurance carrier on this issue (*WALA best practice*).

Q: If an employer or private business or property owner prohibits the carrying of concealed weapons, what is their liability?

A: The new law is silent on liability or immunity for employers or property owners who prohibit the carrying of concealed weapons. The law creates immunity for one group of people – those who choose to allow weapons. On Nov. 9, 2011, two state lawmakers – state Sens. Tim Cullen and Jon Erpenbach - submitted a request for a formal opinion from Wisconsin Attorney General J.B. Van Hollen asking whether the law increases the liability for those who choose to prohibit concealed weapons. The response to that request is pending.

In addition, WALA has requested Wisconsin Attorney General J.B. Van Hollen to provide a written opinion in response to verbal comments on liability he made at a public meeting in November 2011. We do not expect that we will receive a response as we have no legal standing to ask for such written comments.

- In addition, WALA recommends that you consult with your attorney and insurance carrier. (*WALA best practice.*)

Q: Do I need to update my personnel policies on these issues?

A: Yes. You should update your personnel policies and inform your staff on these issues and about your decision whether to prohibit or allow concealed weapons in your building. From a practical perspective, most employers will need to revise their handbooks since many had a flat "no weapons on company grounds" policy, and the parking lot exception (discussed in FAQ #3 above) must now be noted in such handbook policies. (*WALA's best practice.*)

Q: What is the link to the source document?

A: Read the complete WI Department of Justice Q&A guidance document at <http://www.doj.state.wi.us/dles/cib/ConcealedCarry/ccw-faq-20111020.pdf>

FAQs related to signage:

Q: If the employer or private business or property owner decides to prohibit weapons in its facility, or on its grounds, must signs be posted?

A: Yes. “A sign must be located in a prominent place near all of the entrances to the part of the building to which the restriction applies and any individual entering the building can be reasonably expected to see the sign”, and “a sign must be posted in a prominent place near all probable access points to the grounds to which the restriction applies and any individual entering the grounds can be reasonably expected to see the sign. *Wis. Stat. §§ [943.13\(2\)\(bm\)2.b](#), [943.13\(2\)\(bm\)2.am](#)” (From the “Wisconsin Department of Justice CCW FAQ”)*

Q: Is there a specification regarding the size of the sign needed when posting buildings or grounds?

A: Yes. “The sign must be at least five inches by seven inches that states the restriction on carrying a firearm. *Wis. Stat. § [943.13\(2\)\(bm\)1.](#)” (From the “Wisconsin Department of Justice CCW FAQ”)*

Q: Is there a specification regarding exactly what the sign must say?

A: Not yet (but the final regulations, when issued, may specify the exact verbiage). The sign must simply state the restriction imposed. *Wis. Stats. § [943.13\(2\)\(bm\)1.](#) At a minimum the sign must inform people that weapons or firearms are prohibited. There are a number of messages that would meet the standard and the ultimate purpose of the sign is to put individuals on notice of the prohibition or limitation.” (From the “Wisconsin Department of Justice CCW FAQ”)*

Q: Does my sign need to state who is making the prohibition?

A: Only if related to land and not to a facility or grounds. “In regard to posting land, the law only provides that the sign must provide an appropriate notice and the name and legal status of the person giving the notice (providing name and then listing self as either the owner or occupant).” *Wis. Stats. § 943.13(2)am1.* (WALA opinion is that this is vacant land or forest land, etc. and not the back yard of a CBRF.)

In regard to other locations (WALA emphasis) “... the sign must simply state the restriction imposed.” *Wis. Stats. § 943.13(2)(bm)1.* (From the “Wisconsin Department of Justice CCW FAQ”)

WALA’s opinion is that “other locations” means a building or grounds that is not “land.” Therefore we take this to mean that posting who is making the prohibition refers to “land” and you must post who is making the prohibition. However, you do not need to post who

is making the prohibition if you post buildings or grounds as we defined it above. (*WALA opinion*)

Q: Are there sample signs I might use?

A: Yes. Your local/ county police/sheriff's department may have signs you can download and print. One [example is](#) from the City of Madison that you may download and print free. Here are [other examples](#) from a commercial vendor. There are many more on the web and from professional sign makers. Contact your local police/sheriff's department if you wish to confirm the wording of your sign. (*WALA research*)

Rvsd: December 7, 2011