



LEGAL SERVICES DEPARTMENT

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TO: Members of the Safety and Licensing Committee

FROM: Stacy Doucette, Assistant City Attorney

DATE: January 28, 2014

RE: Addition to Municipal Code for Possession of a Firearm within a School Zone

Wis. Stat. §948.605(2) prohibits the possession of firearms within a school zone. When a person is upon the school grounds the violation is a Class I felony. However, when the person is not upon school grounds but is within 1,000 feet of the grounds of a school, the violation is only a Class B forfeiture. The penalty for a Class B forfeiture is a forfeiture that does not exceed \$1,000. The violator can't be imprisoned for a Class B forfeiture action. I have attached a copy of the language of the relevant statutes.

Wis. Stat. §66.0107 allows municipalities to enact and enforce conduct which is the same as or similar to that prohibited by chs. 941 to 948. In addition, the District Attorney's Office generally prefers that municipalities adopt ordinances that prohibit conduct that is only punishable with a forfeiture since the municipalities can issue a citation that provides for a punishment that is similar in nature. However, this simply gives officers an additional option. The totality of the circumstances would ultimately determine what action would be taken against an individual.

The proposed language would read as follows :

Sec. 10-49. Adoption of state law regarding possession of a firearm in a school zone.

W.S.A. §948.605 regarding possession of a firearm in a school zone, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code.

If you have any questions, please feel free to contact me at 832-1580.

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Classification of forfeitures.

- (1) Except as provided in ss. 946.86 and 946.87, forfeitures in chs. 939 to 951 are classified as follows:
- (a) Class A forfeiture.
 - (b) Class B forfeiture.
 - (c) Class C forfeiture.
 - (d) Class D forfeiture.
 - (e) Class E forfeiture.
- (2) A forfeiture is a Class A, B, C, D or E forfeiture when it is so specified in chs. 939 to 951.
- (3) Penalties for forfeitures are as follows:
- (a) For a Class A forfeiture, a forfeiture not to exceed 10,000.
 - (b) For a Class B forfeiture, a forfeiture not to exceed 1,000.
 - (c) For a Class C forfeiture, a forfeiture not to exceed 500.
 - (d) For a Class D forfeiture, a forfeiture not to exceed 200.
 - (e) For a Class E forfeiture, a forfeiture not to exceed 25.

948.605. Gun-free school zones.

- (1) **DEFINITIONS.** In this section:
- (a) "Encased" has the meaning given in s. 167.31 (1) (b).
 - (ac) "Firearm" does not include any beebee or pellet-firing gun that expels a projectile through the force of air pressure or any starter pistol.
 - (am) "Motor vehicle" has the meaning given in s. 340.01 (35).
 - (b) "School" has the meaning given in s. 948.61 (1) (b).
 - (c) "School zone" means any of the following:
 - 1. In or on the grounds of a school.
 - 2. Within 1,000 feet from the grounds of a school.
- (2) **POSSESSION OF FIREARM IN SCHOOL ZONE.**

(a) Any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is in or on the grounds of a school is guilty of a Class I felony. Any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is within 1,000 feet of the grounds of a school is subject to a Class B forfeiture.

(b) Paragraph (a) does not apply to the possession of a firearm by any of the following:

1m. A person who possesses the firearm in accordance with 18 USC 922 (q) (2) (B) (i), (iv), (v), (vi), or (vii).

1r. Except if the person is in or on the grounds of a school, a licensee, as defined in s. 175.60 (1) (d), or an out-of-state licensee, as defined in s. 175.60 (1) (g).

2m. A state-certified commission warden acting in his or her official capacity.

3. That is not loaded and is:

a. Encased; or

b. In a locked firearms rack that is on a motor vehicle;

3m. A person who is legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest under s. 120.13 (38).