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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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| <b>2015 Assembly Bill 46</b>          | <b>Assembly Amendment 1</b>                             |
| <i>Memo published: March 24, 2015</i> | <i>Contact: Anna Henning, Staff Attorney (266-0292)</i> |

2015 Assembly Bill 46 relates to the possession and discharge of firearms by certain off-duty, former, and out-of-state law enforcement officers in a school zone.

### CURRENT LAW

With certain exceptions, the state gun-free school zones law generally prohibits the knowing possession or discharge of a firearm in a “school zone,” defined to include the grounds of a school and the area within 1,000 feet of the grounds of a school. [s. 948.606, Stats.]

In addition, unspecified to schools, under the state trespass law, as amended by 2011 Wisconsin Act 35 (“the Concealed Carry Act”), it is a trespass to carry a firearm in certain locations, including private property and government buildings, if the owner of the property has notified the person carrying the firearm that they may not enter or remain in that location. [s. 943.13 (1m), Stats.]

### 2015 ASSEMBLY BILL 46

Assembly Bill 46 provides exceptions to the state gun-free school zones law for certain off-duty, former, and out-of-state officers who satisfy specified statutory criteria. Specifically, the bill exempts an **off-duty officer** who is employed as a law enforcement officer by an agency in this state from the state gun-free school zones law if all of the following apply:

- The agency that employs the officer has authorized the officer to carry a firearm.
- The officer is not the subject of any disciplinary action by the agency that could result in the suspension or loss of the officer’s law enforcement authority.
- The officer meets all standards established by the agency to qualify the person on a regular basis to use a firearm.

- The officer is not prohibited under federal law from possessing a firearm.
- The firearm is not a machine gun or “destructive device,” as defined under federal law.
- The officer is not carrying a firearm silencer.
- The officer is not under the influence of an intoxicant.

In addition, the bill exempts a **former law enforcement officer** from the state gun-free school zones law if all of the following criteria apply:

- The former officer has been issued a photographic identification document, which meets certain statutory criteria, by the law enforcement agency from which the officer separated.
- The firearm is of the type described in the photographic identification document.
- Within the preceding 12 months, the former officer met the same standards for carrying firearms as apply to active law enforcement officers in the state in which he or she resides.
- The firearm is not a machine gun or an explosive, incendiary, or poison gas.
- The former officer is not carrying a firearm silencer.
- The former officer is not under the influence of an intoxicant.
- The former officer is not prohibited from possessing a firearm under federal law.

Finally, the bill exempts an **out-of-state law enforcement officer** who is employed by a state or local government agency in another state from the state gun-free school zones law if all of the following criteria apply:

- The out-of-state agency has authorized the officer to carry a firearm.
- The officer is not the subject of any disciplinary action by the agency that could result in the suspension or loss of the person’s law enforcement authority.
- The officer meets all standards established by the agency to qualify the person on a regular basis to use a firearm.
- The officer is not prohibited from possessing a firearm under federal law.
- The firearm is not a machine gun or an explosive, incendiary, or poison gas.
- The officer is not carrying a firearm silencer.
- The officer is not under the influence of an intoxicant.

## **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 to Assembly Bill 46 provides an exception to the state trespass laws to allow the off-duty, former, and out-of-state officers who are exempted from the state gun-free school zones law under the bill to possess a firearm on school grounds, as authorized under the bill, without violating the state trespass law. The exception under the amendment applies whether or not a school has posted a notice prohibiting firearms on the premises.

## **BILL HISTORY**

Assembly Amendment 1 to Assembly Bill 46 was offered by Representative Kleefisch on March 6, 2015. On March 12, 2015, the Assembly Committee on State Affairs and Government Operations voted to recommend adoption of the amendment, on a vote of Ayes, 10; Noes, 5. On the same day, the committee voted to recommend passage of the bill, as amended, on a vote of Ayes, 13; Noes, 2.

AH:ksm