

## **National Rifle Association of America**

### **Senate Bill 93, Personal Protection Act Fact Sheet**

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The following is intended to be a general summary of the provisions of Senate Bill 93, the Personal Protection Act (PPA), as transmitted to the Governor for his signature. To find the actual language of the bill, please go to <http://legis.wisconsin.gov/2011/data/acts/11enSB0093.pdf>.

The expected effective date of this law, assuming approval by the Governor, is November 1, 2011. All of the provisions and processes mentioned below should become effective and available on this date. Future alerts will clarify this once the law has been signed by the Governor and officially published.

While SB 93 is primarily focused on legalizing the carrying of *concealed* weapons, it should be noted that the legislation significantly strengthens the rights of those who choose to carry handguns openly without a license. Most significantly, it eliminates the current prohibition against keeping a loaded, uncased handgun in a vehicle, a change applicable to both licensees and non-licensees alike. This eliminates the requirement that these citizens unload/load and case/uncase their handgun every time they enter and exit a vehicle. Also, the bill statutorily prohibits the use of disorderly conduct or disturbing the peace statutes as a means of effectively prohibiting the open-carrying of lawfully-possessed firearms. The days of arresting good people for doing nothing more than exercising their rights within the law have come to an end in Wisconsin.

There is another provision of the bill that enhances the rights of those citizens who choose to carry firearms without a license. This provision clarifies that the general prohibition against the possession of concealed weapons does not apply to people in their own dwelling or place of business or on land that they own, lease or legally occupy. It should be noted that licensees do not need to be in possession of their license while carrying concealed weapons in these locations.

#### **Eligibility and Process**

Wisconsin residents who are 21 years-old or older and who are not prohibited firearms possessors under state or federal law, or prohibited from possessing firearms as a condition of court-ordered release, are eligible to obtain a concealed weapons license. Applications will be available from the Department of Justice (DOJ) by mail upon request or via the Internet.

The application form must be completed and proof of meeting the firearms safety training requirement must be provided along with a fee of no more than \$50 (the exact amount will be determined by rule). DOJ will perform the same criminal background check it conducts on purchasers of firearms. Within 21 days of receiving the application, DOJ must issue the license or deny issuance and state the reasons for denial. An appeals process is established for those who believe they were wrongfully denied. All applicants who are Wisconsin residents 21 years-old or older, who may lawfully possess firearms, who satisfy the safety training requirement, and who pay the fee "shall" be issued a license. The license will be mailed to the licensee.

In order for DOJ to handle what is expected to be an initial flurry of applications, it will have up to 45 days to process applications for the first four months that the law is in effect. After this period, processing time will permanently be no longer than 21 days.

Proof of training includes a photo copy of a certificate of completion of any firearms safety course taught by an instructor who is certified by any state or national organization that certifies instructors. All firearms safety classes taught by NRA Certified Instructors, for example, will suffice. There are also a number of exemptions for those who have had military or law enforcement experience. For instance, military personnel who can show that they have completed basic training that involved a small arms training component will be exempt. Those who have DD 214s may send a photocopy with their applications. Photocopies of a concealed weapons license issued by another jurisdiction or of a hunter education program card will also satisfy this requirement. For more detailed information, see below.

### **General Provisions**

- Requires Wisconsin residents to obtain a Wisconsin concealed weapons license to carry concealed in the state. They may not use an out-of-state license.
- Specifies that a licensee may carry a handgun concealed or openly. Unlike in some other states, an exposed handgun will not result in arrest.
- Offers liability protections for those who choose not to prohibit the carrying of concealed weapons on their properties.
- Specifies that citizens may not be prosecuted for violating local firearms discharge ordinances if they are acting in defense of themselves or others.
- Exempts citizens from various statutory prohibitions against the discharge of firearms under certain circumstances if they are acting in defense of themselves or others.
- Eliminates the prohibition against the possession of uncased, loaded handguns in vehicles, noncommercial aircraft, boats, and ATVs. This expanded freedom applies to both licensees and non-licensees.

- Exempts handguns from the prohibition against a person loading firearms in a vehicle.
- Allows non-residents who have concealed weapons licenses issued by any other state to carry in Wisconsin as long as that jurisdiction requires licensees to submit to a criminal background check comparable to that required for a Wisconsin carry license or the person's license indicates that he or she volunteered for such a background check.
- Authorizes DOJ to enter into reciprocity agreements with other states that may require them in order to honor Wisconsin licenses.
- Requires concealed weapons licensees to be in possession of their licenses at all times while carrying a concealed weapon off of their own property. In addition, licensees must carry a Wisconsin operator's license or identification card. Non-residents carrying concealed weapons using an out-of-state license must carry similar forms of identification issued by their state.
- Directs licensees to present their licenses to law enforcement officers if the officers are acting in an official capacity and with lawful authority.
- Defines "weapon" as a handgun, electric weapon, knife that is not a switchblade or billy club.
- Eliminates the requirement that "encased" firearms be enclosed in a case that is "expressly made for the purpose of containing a firearm." Cases of any kind will now satisfy this requirement.
- States explicitly that the new concealed weapons law does not detract from the right of citizens to carry firearms openly without a license.
- Creates a criminal penalty for any law enforcement officer who uses excessive force based solely on an individual's status as a licensee. The penalty is a fine of not more than \$500 and imprisonment for not more than 30 days.
- Provides for an annual statistical report indicating the number of licenses applied for, issued, denied, suspended and revoked and the reasons for denials, suspensions and revocations.
- Allows law enforcement agencies to access the licensee database only to confirm the validity of a license that has been presented by a licensee or to confirm that a person is a licensee if found carrying a concealed weapon and claims to be a licensee. During investigations, law enforcement officers may access the list to determine if an applicant provided false information during the application process or whether a licensee has complied with the requirement to surrender a suspended or revoked license.

- Specifies that the state may not make licensee information available to the public except in the context of a prosecution for an offense in which the person's status as a licensee is relevant.
- Exempts licensees from the prohibition against carrying handguns in wildlife refuges, state parks and state fish hatcheries.
- Applies the current statutory prohibition against the handling of firearms while impaired to licensees who are carrying concealed weapons. The standard is the same as for those who operate motor vehicles while impaired.
- Exempts licensees from the prohibition against possessing a handgun in establishments that serve alcohol for on-premise consumption as long as the licensee is not consuming alcohol.
- Clarifies that the general prohibition against the possession of concealed weapons does not apply to people in their own dwelling or place of business or on land that they own, lease or legally occupy. Also, licensees do not need to be in possession of their license while carrying concealed weapons in these locations.
- Allows non-licensees to transport electric weapons as long as they are enclosed in a carrying case. This eliminates the existing complete prohibition on transportation.
- Provides for the full implementation of the Federal Law Enforcement Officer Safety Act (LEOSA) in Wisconsin.

### **Application and Issuance**

- Prohibits DOJ from imposing conditions, limitations, or requirements associated with the concealed weapons license application and issuance process that are not expressly provided for in state statute.
- Specifies that the application is to contain information regarding the state's laws of self-defense and a summary of the locations where handgun carry is or may be prohibited. The applicant must sign the documents to confirm understanding.
- Prohibits the use of an applicant's social security number during the application process or on the license document.
- Allows DOJ to contract with the Department of Transportation (DOT) to produce the licenses. Access to and release of all personal information by DOT is restricted.

- Specifies that proof of training may be met by providing a copy of a document that indicates that the applicant completed any of the following:
  - ✓ A hunter education program recognized by the Department of Natural Resources;
  - ✓ A firearms safety or training course that is conducted by a firearms instructor who is certified by a national or state organization that certifies firearms instructors or who is certified by DOJ (includes NRA certified instructors);
  - ✓ A firearms safety or training course that is conducted by a national or state organization that certifies firearms instructors (includes NRA);
  - ✓ A firearms safety or training course that is available to the public and is offered by a law enforcement agency or, if the course is taught by an instructor who is certified by a national or state organization that certifies firearms instructors or by DOJ, by a technical college, a college or university, a private or public institution or organization, or a firearms training school;
  - ✓ A firearms safety or training course that is offered to law enforcement officers or to owners and employees of licensed private detective and security agencies.
  
- Provides that proof of training may also be met by submitting any of the following:
  - ✓ Documentation that the applicant completed military, law enforcement, or security training that gave the applicant experience with firearms that is substantially equivalent to a course described above (determined by DOJ);
  - ✓ Documentation of completion of small arms training while serving in the Armed Forces as demonstrated by an honorable discharge or general discharge under honorable conditions;
  - ✓ A copy of a certificate of completion of military basic training with a service record of successful completion of small arms training and certification;
  - ✓ A copy of a current or expired concealed weapons license issued by another jurisdiction.
  
- Clarifies that DOJ may not require the firing of live ammunition to meet the training requirement.
  
- Allows training to have been taken at any time. There is no requirement that it be taken after the effective date of the law or within a particular time period prior to application.
  
- Provides civil immunity to instructors who provide firearms safety training to applicants and who act in good faith.
  
- Creates criminal penalties for instructors who falsify training documentation and applicants who knowingly provide false information to DOJ.

- Establishes procedures to obtain an emergency license. Citizens may petition the court in their county of residence. If the court finds that immediate licensure is necessary to protect the applicant from death or great bodily harm, it may issue the emergency license which is valid for 30 days.
- Specifies that licenses are valid for five years. Licenses for overseas deployed military personnel do not expire until 90 days after their return from deployment if the expiration date passed while deployed.
- Directs DOJ to send renewal notices to licensees within 90 days of license expiration along with renewal forms. Applicants who still meet the original qualification requirements and who submit a completed renewal application along with a fee of no more than \$25 will have their licenses renewed. Additional training for license renewal is not required.
- Allows lost or destroyed licenses to be replaced for a fee of \$12.
- Establishes the procedure for an appeal of a license denial. Denied applicants may bypass an administrative appeal and proceed directly to the court in his or her county of residence.
- Authorizes the court during any appeal of a denied application to order DOJ to pay the denied applicant all court costs and reasonable attorney fees.
- Requires licensees to notify DOJ of a change of address within 30 days of the change.

### **Prohibitions and Restrictions**

- Allows employers to prohibit employees from carrying concealed weapons while in the course of employment. However, employers may not prohibit licensed employees from keeping the employees' handguns locked in their own private vehicles while at work, even if the vehicles are being used in the course of employment.
- Prohibits concealed weapons in the following locations:
  - ✓ Any portion of a building that is a police station, sheriff's office, state patrol station, or office of the DOJ's division of criminal investigation;
  - ✓ Any portion of a building that is a prison, jail, house of correction or secured correctional facility;
  - ✓ Any secured portion of a mental health institute;
  - ✓ Any portion of a building that is a county, state or federal courthouse (exceptions for judges, district attorneys and those with written judicial authorization);
  - ✓ Any portion of a building that is a municipal courtroom if court is in session;
  - ✓ A place beyond a security checkpoint at an airport.

- Specifies that these prohibitions do not apply if the weapon is in a vehicle driven or parked in a parking facility associated with one of these properties.
- Establishes a criminal penalty of not more than \$500 and imprisonment for not more than 30 days for violators of these statutorily prohibited locations.
- Prohibits licensees from carrying a concealed weapon in the residence of another person if they have been notified that they are not allowed to remain while carrying. "Residence" includes the parcel of land upon which the residence building is located.
- Specifies that common areas of multi-family residences can post to prohibit concealed weapons but the prohibition may not apply to residents of the property.
- Enables owners of nonresidential buildings and grounds to post to prohibit concealed carry.
- Authorizes "special events" that fit a narrow definition to post to prohibit carry. These events must be open to the public, no longer than three weeks in duration and must either require an admission or have designated entrances that are locked when the event is closed.
- Authorizes state and local government units and colleges and universities to post their buildings to prohibit concealed weapons. They may not prohibit carry on grounds outside of buildings.
- Exempts the carrying of firearms in vehicles parked or driven on parking lots associated with all properties except for single family residences.
- Provides civil immunity to property owners and employers who do not prohibit the carrying of concealed weapons.
- States generally that notification of a prohibition against concealed carry in buildings (posting) is provided if a sign that is at least 5"x 7" in size is located in a prominent place near all entrances and individuals entering the building can reasonably be expected to see the sign.
- Treats the notification of a prohibition on grounds outside of buildings differently in that the signs must be posted near all probable access points to the grounds and any individuals entering the grounds can reasonably be expected to see the sign.
- Reduces the state penalty for the possession of a firearm within a school zone (1,000 foot area surrounding school grounds) to a Class B forfeiture punishable by a fine not to exceed \$1000.

### **Effective Date and Temporary Provision**

- Establishes the effective date of the Act as the first day of the fourth month beginning after the date of publication (the law is expected to take effect on November 1, 2011).
- Provides that DOJ has 45 days after an application is received to issue or deny an applicant's request during the first four months after the law becomes effective. At the beginning of the fifth month, the action must be taken within 21 days.