

# Concealed carry is nearly upon us

Posted on *October 05, 2011 5:02 AM* By [Jennifer Walther](#)

A new law allowing qualified Wisconsin residents to carry concealed weapons goes into effect on Nov. 1, 2011. As a result, businesses must now make a decision about whether to allow concealed weapons on their premises and among their employees.

The following points below should help businesses make this decision.

## 1. A license is required.

Except for military or law enforcement personnel, an individual is only authorized to carry concealed weapons if he obtains a "CCW license" by completing an application through the Department of Justice (DOJ). The DOJ requires a background check to ensure the applicant is not prohibited from possessing a firearm (for example due to a felony conviction). In addition, the license can be granted only if the individual completes a firearms training course by experienced and qualified instructors.

## 2. Right to self-defense has not changed.

A CCW license does not give anyone new or additional rights to exercise self-defense or defense of others. Under existing law, a person can defend himself or a third person by using as much force as necessary to prevent or stop an attack, but cannot intentionally cause death or great bodily harm unless necessary to prevent imminent death or great bodily harm to him or the third person. These rights have not changed or increased now that individuals may be licensed to carry concealed weapons.

## 3. Local limits on gun use remain.

There are still laws in effect applicable to CCW licensees, such as city, village or town ordinances restricting the discharge of a firearm. Current law also prohibits discharging a firearm near certain parks, from a vehicle, from or across a highway, into a building or from an aircraft. Even CCW licensees are still prohibited from loading, carrying, or going armed with a firearm with malicious or illegal intent, intentionally pointing a firearm at another, or negligently or recklessly endangering the safety of another with a weapon.

## 4. Now designated driver and designated carrier.

It is illegal for anyone to go armed with a firearm while under the influence of an intoxicant, such as alcohol or illegal drugs. A CCW licensee can carry a concealed weapon in a tavern only if they are not consuming alcohol on the premises.

## 5. Guns can be kept in cars at work.

An employer can prohibit employees from carrying concealed weapons on the job (whether on or off the employer's premises), but may not prohibit the employee with a CCW license from carrying or storing a weapon or ammunition in the employee's own vehicle, even if the vehicle is used in the course of employment or is parked on the employer's property. If an employer does not prohibit its employees from carrying concealed weapons, the employer is immune from liability arising from that decision. If the employer does prohibit its employees from carrying a concealed weapon, it should publish a clear policy explaining this prohibition, and enforce the policy.

## 6. Shopping with a gun?

Business owners can prohibit persons from carrying a concealed weapon on their premises. This

prohibition can be applied separately from or together with the prohibition applicable to employees. If business owners choose the prohibition, they must post a conspicuous notice (at least 5 inches by 7 inches) near the entrances to the building, stating that carrying concealed weapons is prohibited. A business that does not prohibit an individual from carrying a concealed weapon on premises is immune from any liability arising from that decision.

#### 7. Is immunity an illusion?

While immunity sounds appealing, there will still be claims under the worker's compensation law if employees are injured, and there may still be OSHA penalties if the company failed to provide a safe workplace. Further, the immunity applies only to liability "arising from" the decision to not prohibit concealed weapons, leaving the door open to creative litigants to argue the injury did not arise from that decision, but from some other act or omission. In addition, your own intentional unlawful acts may not be insulated. While the lack of immunity may sound frightening, businesses that prohibit the carrying of concealed weapons do not have any increased liability because of the new law. The business' liability is the same now as it was before the law – there may be liability for injury caused to third persons only if the business failed to take reasonable care and the situation was reasonably foreseeable.

Join us on Wednesday, Oct. 12, 2011, at 10 a.m. for a webinar featuring a rapid fire discussion of a bulletproof plan. Register for the webinar, "Don't Shoot Yourself In The Foot — Understanding Wisconsin's Concealed Carry Law," by clicking [here](#).

Not having a plan in place is like carrying a loaded gun without a safety.

*Attorney Jennifer Walther is a shareholder at Mawicke & Goisman, S.C., Milwaukee.*