



MEMORANDUM

Date: March 1, 2016

To: Administration Committee
From: Pamela A. Captain, City Attorney

Re: 2015 Wisconsin Act 149 (Statutory Amendment to Disorderly Conduct)

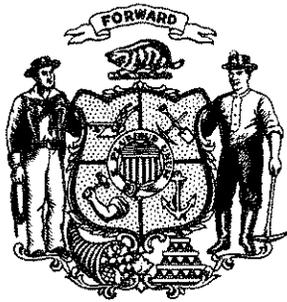
Please be advised that during February 2016 the Wisconsin Legislature enacted and the Governor signed into law 2015 Wisconsin Act 149, which requires an amendment to the Code of Ordinances of the City of Menasha, SEC. 11-2-9 Disorderly Conduct.

The statutory change relates to knives and preemption of local regulation of knives such that a city cannot enact or enforce its own ordinance unless it is the same or similar to, and no more stringent than, the statute.

In summary the primary statutory change does not allow a conviction for disorderly conduct for carrying a weapon or a knife (whether concealed or open carry) unless other facts and circumstances exist indicating a criminal or malicious intent.

It is recommended that the City of Menasha amend SEC. 11-2-9 of its code of ordinances in order to fully comply with the state statutory change.

State of Wisconsin



2015 Assembly Bill 142

Date of enactment: **February 6, 2016**
Date of publication*: **February 7, 2016**

2015 WISCONSIN ACT 149

AN ACT *to repeal* 941.24; *to amend* 66.0409 (title), 66.0409 (2), 66.0409 (3) (a), 66.0409 (6), 175.60 (1) (j), 938.78 (3), 939.632 (1) (e) 3., 947.01 (2) and 968.255 (1) (a) 2.; and *to create* 66.0409 (3) (c), 941.23 (1) (ap) and 941.231 of the statutes; **relating to:** knives and preemption of regulation of knives and providing a criminal penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.0409 (title) of the statutes is amended to read:

66.0409 (title) Local regulation of firearms weapons.

SECTION 2. 66.0409 (2) of the statutes is amended to read:

66.0409 (2) Except as provided in subs. (3) and (4), no political subdivision may enact or enforce an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration, or taxation of any knife or any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

SECTION 3. 66.0409 (3) (a) of the statutes is amended to read:

66.0409 (3) (a) Nothing in this section prohibits a county from imposing a sales tax or use tax under subch. V of ch. 77 on any knife or any firearm or part of a firearm, including ammunition and reloader components, sold in the county.

SECTION 3d. 66.0409 (3) (c) of the statutes is created to read:

66.0409 (3) (c) Nothing in this section prohibits a political subdivision from enacting or enforcing an ordinance or adopting a resolution that prohibits the possession of a knife in a building, or part of a building, that is owned, occupied, or controlled by the political subdivision.

SECTION 4. 66.0409 (6) of the statutes is amended to read:

66.0409 (6) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, no person may be in violation of, or be charged with a violation of, an ordinance of a political subdivision relating to disorderly conduct or other inappropriate behavior for loading, a firearm, or for carrying, or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried. Any ordinance in violation of this subsection does not apply and may not be enforced.

SECTION 5. 175.60 (1) (j) of the statutes is amended to read:

175.60 (1) (j) "Weapon" means a handgun, an electric weapon, as defined in s. 941.295 (1c) (a), -a knife

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

other than a switchblade knife under s. 941.24, or a billy club.

SECTION 6. 938.78 (3) of the statutes is amended to read:

938.78 (3) **RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES.** If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats., or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.231, 941.235, 941.237, 941.24, 941.26, 941.28, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2) (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055, 948.085 (2), 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from a juvenile correctional facility, residential care center for children and youth, inpatient facility, as defined in s. 51.01 (10), juvenile detention facility, or juvenile portion of a county jail, or from the custody of a peace officer or a guard of such a facility, center, or jail, or has been allowed to leave a juvenile correctional facility, residential care center for children and youth, inpatient facility, juvenile detention facility, or juvenile portion of a county jail for a specified time period and is absent from the facility, center, home, or jail for more than 12 hours after the expiration of the specified period, the department or county department having supervision over the juvenile may release the juvenile's name and any information about the juvenile that is necessary for the protection of the public or to secure the juvenile's return to the facility, center, home,

or jail. The department shall promulgate rules establishing guidelines for the release of the juvenile's name or information about the juvenile to the public.

SECTION 7. 939.632 (1) (e) 3. of the statutes is amended to read:

939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32 (2), 940.42, 940.44, 941.20 (1), 941.23, 941.231, 941.235, 941.24 or 941.38 (3).

SECTION 8. 941.23 (1) (ap) of the statutes is created to read:

941.23 (1) (ap) Notwithstanding s. 939.22 (10), "dangerous weapon" does not include a knife.

SECTION 9. 941.231 of the statutes is created to read:

941.231 Carrying a concealed knife. Any person who is prohibited from possessing a firearm under s. 941.29 who goes armed with a concealed knife that is a dangerous weapon is guilty of a Class A misdemeanor.

SECTION 10. 941.24 of the statutes is repealed.

SECTION 11. 947.01 (2) of the statutes is amended to read:

947.01 (2) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of, this section for loading, a firearm, or for carrying, or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried.

SECTION 12. 968.255 (1) (a) 2. of the statutes is amended to read:

968.255 (1) (a) 2. A person arrested for any misdemeanor under s. 167.30 (1), 940.19, 941.20 (1), 941.23, 941.231, 941.237, 941.24, 948.60, or 948.61.