

# **SOME RELEVANT WISCONSIN STATUTES**

**\*\*\*FOR INFORMATION ONLY\*\*\***

## **939.48 Self-defense and defense of others**

(1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

(2) Provocation affects the privilege of self-defense as follows:

(a) A person who engages in unlawful conduct of a type likely to provoke others to attack him or her and thereby does provoke an attack is not entitled to claim the privilege of self-defense against such attack, except when the attack which ensues is of a type causing the person engaging in the unlawful conduct to reasonably believe that he or she is in imminent danger of death or great bodily harm. In such a case, the person engaging in the unlawful conduct is privileged to act in self-defense, but the person is not privileged to resort to the use of force intended or likely to cause death to the person's assailant unless the person reasonably believes he or she has exhausted every other reasonable means to escape from or otherwise avoid death or great bodily harm at the hands of his or her assailant.

(b) The privilege lost by provocation may be regained if the actor in good faith withdraws from the fight and gives adequate notice thereof to his or her assailant.

(c) A person who provokes an attack, whether by lawful or unlawful conduct, with intent to use such an attack as an excuse to cause death or great bodily harm to his or her assailant is not entitled to claim the privilege of self-defense.

(3) The privilege of self-defense extends not only to the intentional infliction of harm upon a real or apparent wrongdoer, but also to the unintended infliction of harm upon a 3rd person, except that if the unintended infliction of harm amounts to the crime of first-degree or 2nd-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, first-degree or 2nd-degree reckless injury or injury by negligent handling of dangerous weapon, explosives or fire, the actor is liable for whichever one of those crimes is committed.

(4) A person is privileged to defend a 3rd person from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend himself or herself from real or apparent unlawful interference, provided that the person reasonably believes that the facts are such that the 3rd person would be privileged to act in self-defense and that the person's intervention is necessary for the protection of the 3rd person.

(5) A person is privileged to use force against another if the person reasonably believes that to use such force is necessary to prevent such person from committing suicide, but this privilege does not extend to the intentional use of force intended or likely to cause death.

(6) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

#### **939.49 Defense of property and protection against retail theft**

(1) A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with the person's property. Only such degree of force or threat thereof may intentionally be used as the actor reasonably believes is necessary to prevent or terminate the interference. It is not reasonable to intentionally use force intended or likely to cause death or great bodily harm for the sole purpose of defense of one's property.

(2) A person is privileged to defend a 3rd person's property from real or apparent unlawful interference by another under the same conditions and by the same means as those under and by which the person is privileged to defend his or her own property from real or apparent unlawful interference, provided that the person reasonably believes that the facts are such as would give the 3rd person the privilege to defend his or her own property, that his or her intervention is necessary for the protection of the 3rd person's property, and that the 3rd person whose property the person is protecting is a member of his or her immediate family or household or a person whose property the person has a legal duty to protect, or is a merchant and the actor is the merchant's employee or agent. An official or adult employee or agent of a library is privileged to defend the property of the library in the manner specified in this subsection.

(3) In this section "unlawful" means either tortious or expressly prohibited by criminal law or both.

### **941.235 Carrying firearm in public building**

(1) Any person who goes armed with a firearm in any building owned or leased by the state or any political subdivision of the state is guilty of a Class A misdemeanor.

(2) This section does not apply to peace officers or armed forces or military personnel who go armed in the line of duty or to any person duly authorized by the chief of police of any city, village or town, the chief of the capitol police or the sheriff of any county to possess a firearm in any building under sub. (1).

### **941.237 Carrying handgun where alcohol beverages may be sold and consumed**

(1) In this section:

(a) "Alcohol beverages" has the meaning given in s. 125.02 (1).

(b) "Correctional officer" means any person employed by the state or any political subdivision as a guard or officer whose principal duties are the supervision and discipline of inmates.

(c) "Encased" has the meaning given in s. 167.31 (1) (b).

(cm) "Firearms dealer" means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer issued by the U.S. department of the treasury.

(d) "Handgun" has the meaning given in s. 175.35 (1) (b).

(dm) "Hotel" has the meaning given in s. 254.61 (3).

(e) "Premises" has the meaning given in s. 125.02 (14m), but excludes any area primarily used as a residence.

(em) "Private security person" has the meaning given in s. 440.26 (1m) (h).

(f) "Target range" means any area where persons are allowed to use a handgun to fire shots at targets.

(fm) "Tavern" means an establishment, other than a private club or fraternal organization, in which alcohol beverages are sold for consumption on the premises.

(g) "Unloaded" means any of the following:

1. Having no shell or cartridge in the chamber of a handgun or in the magazine attached to a handgun.
2. In the case of a caplock muzzle-loading handgun, having the cap removed.
3. In the case of a flintlock muzzle-loading handgun, having the flashpan cleaned of powder.

(2) Whoever intentionally goes armed with a handgun on any premises for which a Class "B" or "Class B" license or permit has been issued under ch. 125 is guilty of a Class A misdemeanor.

**(3) Subsection (2)** does not apply to any of the following:

(a) A peace officer.

(b) A correctional officer while going armed in the line of duty.

(c) A member of the U.S. armed forces or national guard while going armed in the line of duty.

(cm) A private security person meeting all of the following criteria:

1. The private security person is covered by a license or permit issued under s. 440.26.

2. The private security person is going armed in the line of duty.

3. The private security person is acting with the consent of the person specified in par. (d).

(d) The licensee, owner, or manager of the premises, or any employee or agent authorized to possess a handgun by the licensee, owner, or manager of the premises.