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## Impact of New “Conceal and Carry” Law on Schools

On April 28, 2003, Governor Pawlenty signed into law the Minnesota Citizens’ Personal Protection Act (the “Act”), which is codified at Minnesota Statutes Sections 609.66, subd. 1(d) and 624.714. In general, the Act allows individuals to obtain permits to carry handguns by requiring the local county sheriff to issue a permit if the applicant meets certain requirements. The applicant must:

- Be trained in the safe use of a pistol;
- Be at least 21 years old and a citizen or permanent resident of the United States;
- Complete a permit application;
- Not be prohibited from possessing a firearm under other laws; and
- Not be listed in the criminal gang investigative data system.

Additionally, a 30-day permit may be issued without the applicant completing the training requirement, if the applicant alleges that his/her personal safety is at risk, in which case a license may be issued on an “emergency” basis. The Act also requires that Minnesota recognize permits issued by other states with similar permit regulations.

**The Act went into effect on May 28, 2003.**

Generally speaking, a permit to carry a pistol issued or recognized under the Act is a state permit and is effective throughout the state. However, the Act carves out an exception for schools in certain circumstances.

Basically, the Act provides for *two* types of limits on the carry and possession of firearms that apply in the school setting. The first category is *criminal prohibitions*. The second, which may apply if desired by the district, is *employment-related restrictions*. Each of these limitations is discussed below.

### **Criminal Prohibition - Carrying Firearms in School Buildings and “Improved” School Grounds.**

Under the Act, “it is a *misdemeanor* for a person authorized to carry a firearm under the provisions of a permit or otherwise to carry a firearm on or about the person’s clothes or person in a location a person knows is *school property*.” A *non-permit holder* who brings a dangerous weapon (including a firearm) on school property may be guilty of a felony, unless a statutory exception applies. “School property” means:

1. *A public or private elementary, middle, or secondary school building and its improved grounds*, whether leased or owned by the school.
2. *A child care center licensed under Chapter 245A during the period children are present and participating in a child care program.*
3. *The area within a school bus when that bus is being used by a school to transport one or more elementary, middle or secondary school students to and from school-related activities, including curricular, co-curricular, non-curricular, extracurricular, and supplementary activities.*
4. *That portion of a school building or facility under the temporary, exclusive control of a public or private school, a school district or an association of such entities where conspicuous signs are prominently posted at each entrance that give actual notice to persons of the school-related use.*

The Act thus prohibits the carry or possession of firearms in public school buildings where children attend school. This prohibition includes the “improved grounds” surrounding these buildings. Any property that is not in a natural state (i.e. contains fixtures such as playground equipment, or property that has been improved, such as a football field or baseball diamond) may be considered “improved grounds.” “Improved grounds” also includes the parking lot adjacent to the school building, *except* that it is not a crime for a permit-holder to keep a

gun in the interior of the vehicle while parked in the parking lot, and to take it outside of the vehicle to directly place the firearm in the trunk or rear area of the vehicle. A complete list of exceptions to the criminal prohibition are described below.

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### **Criminal Prohibitions - Exceptions Which Allow Carry and Possession of Firearms On School Property.**

The criminal prohibitions described in the Act are not all-encompassing. Under a limited set of circumstances, persons are allowed to carry or possess firearms on school property. They are:

1. Licensed peace officers, military personnel, or students participating in military training, who are on-duty, performing official duties;
2. Persons authorized to carry a pistol under the Act while in a motor vehicle or outside of a motor vehicle to directly place a firearm in, or retrieve it from, the trunk or rear area of the vehicle;
3. Persons who keep or store any motor vehicle pistols in accordance with Sections 624.714 or 624.715 or other firearms in accordance with Section 97B.045 (Section 624.714 specifies the procedures for obtaining a permit. Section 624.715 defines exceptions to the permit requirement for antique firearms. Section 97B.045 generally governs transportation of firearms in a motor vehicle);
4. Firearm safety or marksmanship courses or activities conducted on school property;
5. Possession of dangerous weapons, BB guns, or replica firearms by a ceremonial color guard;
6. A gun or knife show held on school property;
7. Possession of dangerous weapons, BB guns, or replica firearms with permission of the principal or other person having general control and supervision of the school or the director of a child care center; or
8. Persons who are on unimproved school property owned or leased by a child care center, school, or school district unless the person knows that a student is currently present on the land for a school-related activity.

### **Employment-Related Restrictions - Possession and Carrying Concealed Firearms in School Buildings and On "Improved" School Grounds.**

The Act give employers such as the School District the ability to exercise some control over the carry or possession of firearms by employees. The Act provides:

An employer, whether *public* or private, *may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment.*

Employment-related civil sanctions may be invoked for a violation.

(Emphasis added.) Thus, the School District can adopt a policy which restricts the carry and possession of firearms while acting in the course and scope of employment.

Since the Act makes it a crime for a permit-holder to carry or possess a firearm in school buildings and on improved school property, a school district's policy can *prohibit* such carry or possession in school buildings and on improved school property, *with one important exception.* According to the Act, "an employer . . . may not *prohibit* the *lawful* carry or possession of firearms in a *parking facility or parking area.*" (Emphasis added.)

A "lawful" carry or possession *for school purposes* would include such activities that conform to the criminal prohibitions described above. For example, an employee permit-holder can keep a firearm in the interior of the vehicle. This individual can also carry the firearm outside the vehicle to directly place it in the trunk or rear area of the vehicle. An employment policy created by a school district cannot prohibit these activities.

However, the Act appears to accord the School District the right to restrict employees from carrying and possessing firearms in school parking lots or while otherwise acting in the course and scope of employment. In other words, reasonable limitations may be imposed on the method of storing firearms in vehicles used by permit-holding employees or when permit-holding employees are acting in the course and scope of employment.

### **New Law Has No Effect on Student Discipline.**

Although the Act accords certain rights to permit-holders, the law does not in any way lessen a school district's ability to discipline a student who brings a firearm to school. The "Gun Free Schools Act" requirement to expel a student for at least one year (modified on a case-by-case basis) remains intact. In fact, since an applicant for a permit must be at least 21 years old, most students would not even be eligible to obtain a permit. And even if a student did obtain such a permit, it would still be a crime, and an expellable offense, for the student to bring a firearm onto school property.