



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-0895/1  
CMH:sac:jf

## 2013 ASSEMBLY BILL 222

May 29, 2013 – Introduced by Representatives KESSLER, BARNES, JOHNSON, SINICKI and C. TAYLOR, cosponsored by Senator RISSER. Referred to Committee on Criminal Justice.

1     **AN ACT to amend** 165.70 (1) (b), 938.78 (3), 939.632 (1) (e) 1., 946.82 (4) and  
2             969.08 (10) (b); and **to create** 941.285 of the statutes; **relating to:** ban on  
3             assault weapons and large-capacity magazines and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Generally, current law does not prohibit the possession, sale, or transfer of an assault weapon. This bill bans the transportation, purchase, possession, or transfer of an assault weapon and specifically defines “assault weapon” for the purpose of the ban. Under the bill, whoever transports, purchases, possesses, or transfers an assault weapon is guilty of a felony and may be fined up to \$10,000, sentenced to a term of imprisonment of up to six years, or both; if the crime is committed in a school zone, the maximum term of imprisonment is increased by five years. This ban does not apply to the transportation, purchase, possession, or transfer of an assault weapon that is rendered permanently inoperative, to any peace officer or armed forces or military personnel while on official duty, to a licensed importer or manufacturer of assault weapons, or to a firearms dealer who is authorized to sell assault weapons.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

**ASSEMBLY BILL 222**

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1           **SECTION 1.** 165.70 (1) (b) of the statutes is amended to read:

2           165.70 (1) (b) Except as provided in sub. (1m), enforce chs. 945 and 961 and ss.  
3           940.20 (3), 940.201, 941.25 to 941.27, 941.285, 943.01 (2) (c), 943.011, 943.27, 943.28,  
4           943.30, 944.30, 944.31, 944.32, 944.33, 944.34, 946.65, 947.02 (3) and (4), 948.075,  
5           and 948.08.

6           **SECTION 2.** 938.78 (3) of the statutes is amended to read:

7           938.78 (3) **RELEASE OF INFORMATION WHEN ESCAPE OR ABSENCE; RULES.** If a juvenile  
8           adjudged delinquent under s. 48.12, 1993 stats., or s. 938.12 or found to be in need  
9           of protection or services under s. 48.13 (12), 1993 stats., or s. 48.13 (14), 1993 stats.,  
10          or s. 938.13 (12) or (14) on the basis of a violation of s. 943.23 (1m) or (1r), 1999 stats.,  
11          or s. 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,  
12          941.285, 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04,  
13          943.10 (2) (a), 943.23 (1g), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055,  
14          948.085 (2), 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped  
15          from a juvenile correctional facility, residential care center for children and youth,  
16          inpatient facility, as defined in s. 51.01 (10), juvenile detention facility, or juvenile  
17          portion of a county jail, or from the custody of a peace officer or a guard of such a  
18          facility, center, or jail, or has been allowed to leave a juvenile correctional facility,  
19          residential care center for children and youth, inpatient facility, juvenile detention  
20          facility, or juvenile portion of a county jail for a specified time period and is absent  
21          from the facility, center, home, or jail for more than 12 hours after the expiration of

**ASSEMBLY BILL 222**

1 the specified period, the department or county department having supervision over  
2 the juvenile may release the juvenile's name and any information about the juvenile  
3 that is necessary for the protection of the public or to secure the juvenile's return to  
4 the facility, center, home, or jail. The department shall promulgate rules  
5 establishing guidelines for the release of the juvenile's name or information about  
6 the juvenile to the public.

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

8 939.632 (1) (e) 1. Any felony under s. 940.01, 940.02, 940.03, 940.05, 940.09  
9 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31,  
10 941.20, 941.21, 941.285, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1)  
11 or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
12 or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.

13 **SECTION 4.** 941.285 of the statutes is created to read:

14 **941.285 Possession of assault weapons. (1)** In this section:

15 (a) "Assault weapon" means any of the following:

16 1. A semiautomatic, center-fire, or pump-action rifle that has the capacity to  
17 accept a detachable magazine and has any of the following:

18 a. A pistol grip.

19 b. A folding, telescoping, or thumbhole stock.

20 c. A 2nd handgrip or protruding grip that can be held by the nontrigger hand.

21 d. A shroud that is attached to, or partially or completely encircles, the barrel,  
22 but excluding a slide that encloses the barrel.

23 e. A muzzle brake or muzzle compensator.

24 f. A grenade launcher or a flare launcher.

25 g. A flash suppressor.

**ASSEMBLY BILL 222**

1 h. A forward pistol grip.

2 2. A semiautomatic pistol, or any semiautomatic, centerfire rifle with a fixed  
3 magazine, that has the capacity to accept more than 10 rounds of ammunition.

4 3. A semiautomatic, centerfire rifle that has an overall length of less than 30  
5 inches.

6 4. A semiautomatic pistol that has the capacity to accept a detachable  
7 magazine and has any of the following:

8 a. A threaded barrel capable of accepting a flash suppressor, forward handgrip,  
9 or silencer.

10 b. A folding, telescoping, or thumbhole stock.

11 c. A 2nd handgrip or protruding grip that can be held by the nontrigger hand.

12 d. A shroud that is attached to, or partially or completely encircles, the barrel,  
13 but excluding a slide that encloses the barrel.

14 e. A muzzle brake or muzzle compensator.

15 5. A semiautomatic shotgun that has any of the following:

16 a. A pistol grip, thumbhole stock, or vertical handgrip and a folding or  
17 telescoping stock.

18 b. A fixed magazine capacity in excess of 5 rounds.

19 c. An ability to accept a detachable magazine.

20 6. A shotgun with a revolving cylinder.

21 7. A conversion kit or parts from which an assault weapon can be assembled  
22 if all of the kit or parts are in the control of the same person.

23 (am) "Detachable magazine" means any ammunition feeding device, the  
24 function of which is to deliver one or more ammunition cartridges into the firing

**ASSEMBLY BILL 222**

1 chamber, that can be removed from the firearm without any tool, bullet, or  
2 ammunition cartridge.

3 (b) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

4 (c) 1. “Large-capacity magazine” means any ammunition feeding device that  
5 has the capacity to accept more than 7 rounds.

6 2. “Large-capacity magazine” does not include any of the following:

7 a. A 22-caliber tube ammunition feeding device.

8 b. A tubular magazine that is contained in a lever-action firearm.

9 (cg) “Muzzle brake” means a device that is attached to the muzzle of a weapon  
10 and that uses escaping gas to reduce recoil.

11 (cr) “Muzzle compensator” means a device that is attached to the muzzle of a  
12 weapon and that uses escaping gas to control muzzle movement.

13 (d) “Rifle” has the meaning given in s. 941.28 (1) (a).

14 (e) “Semiautomatic” means that the firearm is a repeating firearm that  
15 requires a separate pull of the trigger to fire each cartridge and that uses a portion  
16 of the energy of a firing cartridge to extract the fired cartridge case and to place  
17 another unfired cartridge into the chamber.

18 (f) “Shotgun” has the meaning given in s. 941.28 (1) (d).

19 **(2)** Whoever manufactures, transports, purchases, possesses, goes armed with,  
20 or sells or otherwise transfers possession of an assault weapon is guilty of a Class H  
21 felony.

22 **(2m)** Whoever manufactures, transports, purchases, possesses, or sells or  
23 otherwise transfers possession of a large-capacity magazine is guilty of a Class H  
24 felony.

25 **(3)** Subsections (2) and (2m) do not apply to any of the following:

**ASSEMBLY BILL 222**

1 (a) The transportation, purchase, possession, sale, or transfer of possession of  
2 an assault weapon or large-capacity magazine modified to render it permanently  
3 inoperative.

4 (b) Any law enforcement officer while on official duty.

5 (c) Any armed forces or military personnel while on official duty.

6 (d) The possession of an assault weapon or large-capacity magazine by any  
7 licensed importer or manufacturer under 26 USC 5801 to 5872 authorized to import  
8 or manufacture that assault weapon or large-capacity magazine.

9 (e) The possession of an assault weapon or large-capacity magazine under any  
10 of the following conditions by a firearms dealer authorized to sell assault weapons  
11 or large-capacity magazines:

12 1. Transporting an assault weapon or large-capacity magazine to another  
13 firearms dealer authorized to sell assault weapons or large-capacity magazines.

14 2. Transporting an assault weapon or large-capacity magazine to and  
15 displaying the assault weapon or large-capacity magazine at a gun show.

16 **SECTION 5.** 946.82 (4) of the statutes is amended to read:

17 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961  
18 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
19 of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
20 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
21 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
22 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and  
23 (3), 941.26, 941.28, 941.285, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g),  
24 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)  
25 (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28,

**ASSEMBLY BILL 222**

1 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and  
2 (c), 943.50 (4) (bf), (bm), and (c) and (4m), 943.60, 943.70, 943.76, 943.81, 943.82,  
3 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),  
4 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,  
5 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,  
6 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

7 **SECTION 6.** 969.08 (10) (b) of the statutes is amended to read:

8 969.08 (10) (b) "Serious crime" means any crime specified in s. 943.23 (1m),  
9 1999 stats., or s. 943.23 (1r), 1999 stats., or s. 346.62 (4), 940.01, 940.02, 940.03,  
10 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.20, 940.201,  
11 940.203, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g.,  
12 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3), 941.26, 941.285, 941.30,  
13 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10,  
14 943.23 (1g), 943.30, 943.32, 943.81, 943.82, 943.83, 943.85, 943.86, 943.87, 943.88,  
15 943.89, 943.90, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03,  
16 948.04, 948.05, 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the victim is a  
17 financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

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(END)