

Wisconsin Still Has Its Own Suppressor Law

Wisconsin Statute §941.298 states that a person who sells, delivers or possesses a firearm silencer generally commits a Class H felony.

That statute, however, contains exceptions—including one for a person who has complied with federal licensing and registration requirements under the NFA.

That language was written when federal suppressor registration was unquestionably part of the federal regulatory system.

The Jensen ruling changes that assumption.

And that raises a question that Wisconsin lawmakers have never had to confront: What happens when state law makes an exception dependent upon compliance with a federal registration requirement that a federal court says the federal government can no longer enforce?

That question is at the center of WGO's new effort.

The organization says Wisconsin should amend §941.298 to remove the obsolete federal-registration requirement and make clear that a Wisconsin resident who may lawfully possess a suppressor under federal law is not committing a state felony simply because the suppressor has not been federally registered.

“We shouldn't be asking a Wisconsin gun owner to risk a felony prosecution just to find out what an outdated statute means in a completely new federal legal environment,” Graff said.

A Potential Legal Conflict

The Wisconsin statute creates an unusual legal situation. Wisconsin does not operate its own independent suppressor-registration system. Instead, the state statute incorporates federal licensing and registration requirements into an exception to the state prohibition.

That means the federal court ruling could have consequences beyond federal law.

One possible interpretation is that Wisconsin's statute continues to require actual federal registration regardless of whether federal authorities can enforce that requirement.

Another interpretation is that Wisconsin's statute incorporates whatever federal registration requirements are legally applicable. If the federal government can no longer require registration under the circumstances covered by Jensen, there may be no federal registration requirement with which a person can comply.

That second interpretation could give Wisconsin gun rights advocates a significant legal argument.

But it has not been definitively resolved by Wisconsin courts.

And that distinction is important.

Badger State gun owners should not assume that the federal ruling automatically makes possession of an unregistered suppressor lawful under Wisconsin law.

Wisconsin's statute remains on the books, and unauthorized suppressor possession remains potentially punishable as a Class H felony.