

# Stateline Midwest

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THE MIDWESTERN OFFICE OF THE COUNCIL OF STATE GOVERNMENTS

## The future of gun laws

### Some measures would tighten gun control, others seek to eliminate 'gun-free' zones

by Tim Anderson ([tanderson@csg.org](mailto:tanderson@csg.org))

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Rep. Kelly Cassidy doesn't have to go far from her office in Springfield to understand the deep division over gun control and gun owner rights in Illinois.

Her suite mate inside the state Capitol is not only a fellow legislator, but a fellow member of the House Democratic caucus. She represents a part of Chicago, he a part of downstate Illinois.

They respect one another and can find agreement on many issues, but not when it comes to what to do about the state's gun laws.

"We live in two different worlds," she says.

From her perspective, more has to be done about gun violence, and part of the answer lies in new laws that aim to keep lethal weapons out of the hands of criminals.

In her North Side district, she says, shots are heard so regularly at night that some have made a game out of the noise: guns or fireworks?

Last year alone, there were more than 500 homicides in Chicago. Those statistics, along with the mass school shooting in Newtown, Conn., helped lead lawmakers to consider several changes to the state's laws at the tail end of last year.

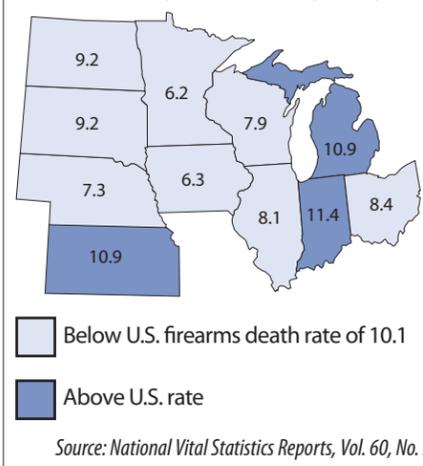
HB 1263 called for a ban on certain types of semiautomatic weapons. HB 815 would have barred ammunition magazines capable of holding more than 10 rounds.

One of Cassidy's top priorities is to crack down on straw gun purchases — cases in which someone buys a gun for an individual unable to purchase it to due to a criminal background or other reasons. Many of the guns found at Chicago crime scenes have been traced back to local gun shops, Cassidy says, where the weapons were likely bought by straw purchasers.

She wants to require gun owners to report a lost or stolen gun. Not doing so would be a felony, thus creating a state penalty aimed at straw purchasers.

Lawmakers, too, have considered a proposal (HB 5831) backed by Chicago Mayor Rahm Emanuel to establish a handgun registry.

Firearms deaths, per 100,000 residents, in Midwest (2009)



But efforts in Illinois to change or tighten its gun laws have thus far fallen short, with opponents saying the various measures trample on the constitutional rights of law-abiding gun owners while doing nothing to keep guns out of the hands of criminals.

Illinois will be one of the states to watch in 2013 in a national debate over guns that will play out in state capitols across the country.

#### A look back, a look ahead

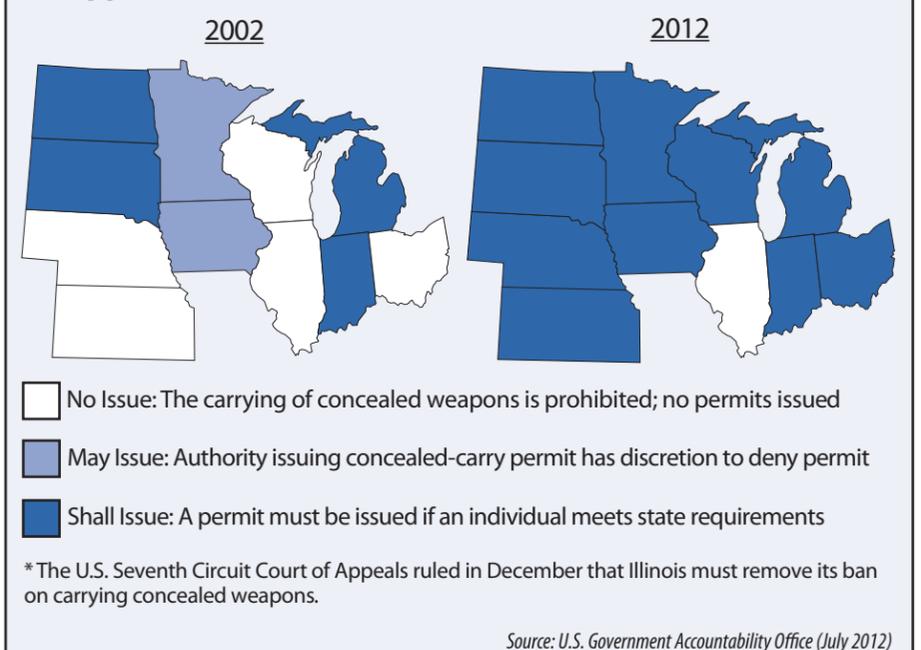
Over the past decade in the Midwest, changes in state gun laws have tilted in favor of gun-rights advocates. In 2002, for example, five states prohibited people from carrying concealed weapons. Today, Illinois is the lone "no issue" state, and it may soon be forced to pass a concealed-carry law as the result of a recent federal court ruling.

This past year, South Dakota came close to becoming the Midwest's first constitutional-carry state: no permit needed to carry concealed weapons. HB 1248 passed the Legislature but was vetoed by Republican Gov. Dennis Daugaard.

In the state-by-state activity tracked through its Legislative Action Institute, the National Rifle Association counts many victories over the past few years in the Midwest — from changes to the licensing process for purchasing guns in Michigan, to stronger self-defense laws in states such as Indiana, Nebraska and Wisconsin (known as "stand your ground" by proponents and

▶ PLEASE TURN TO PAGE 6

Decade of legislative victories for concealed-carry supporters: Trends in state laws between 2002 and 2012\*



Source: U.S. Government Accountability Office (July 2012)

▶ CONTINUED FROM PAGE 1

## Closing loopholes, changing criteria for owning guns among state policy options

“shoot first” by opponents).

Will this momentum for gun-rights advocates continue in 2013? Or will there be a shift in favor of tighter restrictions on guns? And what do proponents on opposing sides of the gun-law debate believe the top priorities for state legislators should be?

CSG Midwest recently talked to two oft-quoted and -cited people on the issue to get their perspectives: Daniel Webster, director of the Center for Gun Policy and Research at Johns Hopkins University; and John Lott, author of the influential book “More Guns, Less Crime.”

### Webster: Mix of new laws would help keep guns from ‘dangerous people’

Webster compares the nation’s current gun regulatory system to a hypothetical airline security system. In one line, individuals are subject to all of the checkpoints; in another, people walk right on the plane.

“What’s the point if you’re going to let people bypass security?” he asks. “But that’s what we have in the majority of states right now.”

Individuals purchasing a firearm from a federally licensed gun dealer must first pass a background check. However, an estimated 40 percent of sales are from private, unlicensed dealers.

Commonly referred to as the “gun show loophole,” the term minimizes what actually is a gaping hole in the system, Webster says.

“That makes it very difficult to meet what should be the core objective: keeping guns from dangerous people.”

According to his center’s research, about 80 percent of the individuals who reported using a gun in a crime obtained it via a transaction outside the current system of background checks.

Closing the loophole, he says, “has to be priority No. 1.”

According to the Coalition to Close the Gun Show Loophole, Illinois is the only state in the Midwest that requires universal background checks on all firearm sales at gun shows. The coalition lists Iowa, Michigan and Nebraska as among the other states that have taken some actions to close loopholes in the federal system.

But no single policy will keep guns out of the hands of dangerous people. Webster, for example, notes this other statistic: About half of the people incarcerated for a gun crime were eligible to purchase firearms legally at the time of the crime.

“States should re-examine whether their [criteria] for prohibiting individuals from possessing firearms are sufficient,” he believes.

For example, Webster notes there are many cases in which individuals have been arrested multiple times and have had felony charges turned into misdemeanors (due to plea deals). Should these individuals be able to own a gun? Or should the state threshold at least be more stringent for carrying a concealed weapon?

Webster says state policymakers should be asking these questions, as well as whether the minimum age for possessing a handgun should be raised to 21.

“If you look at homicide offenses, it peaks at that age 18-20 group,” he explains. “Does it make sense to say, ‘No, you may not drink a beer, but you may possess as many handguns as you like?’”

Absent raising the age, he suggests states consider adding additional conditions for young people seek-

### Recent developments in state gun laws in the Midwest

#### WISCONSIN BECOMES LATEST STATE TO OK CONCEALED CARRY

Wisconsin’s passage of right-to-carry legislation in 2011 capped a decade of legislative wins in the Midwest for concealed-carry advocates — a period in which bills were also passed in **KANSAS**, **NEBRASKA** and **OHIO**. In Wisconsin, anyone 21 or older who has completed a firearms training course must be issued a permit if he or she is eligible to own a firearm. Well more than 100,000 people have been issued permits so far.

#### ILLINOIS EXAMINES BILLS TO TIGHTEN GUN LAWS

Illinois is now the lone “no issue” state in the country, and in December, a three-judge federal panel ruled the concealed-carry ban unconstitutional. Lawmakers were given 180 days to move ahead with concealed-carry legislation. Attorney General Lisa Madigan, a Democrat, has asked the entire U.S. Seventh Court of Appeals to rehear the case. Meanwhile, several proposals to tighten gun laws are being considered: a ban on certain types of semiautomatic weapons, a prohibition on ammunition magazines that hold more than 10 rounds, a requirement that gun owners report lost or stolen guns, and creation of a statewide handgun registry.

#### SOUTH DAKOTA BILL TO ELIMINATE CONCEALED-CARRY PERMIT REQUIREMENT VETOED

Only a March 2012 veto by Republican Gov. Dennis Daugaard stood in the way of South Dakota becoming the Midwest’s first “constitutional carry” state, meaning a state permit is not required in order to carry concealed weapons.

According to the U.S. Government Accountability Office, several criteria are commonly used by states to disqualify an individual from carrying a concealed weapon: substance abuse, a felony conviction, mental deficiencies or psychiatric disorders, a conviction on a domestic abuse charge, a violent misdemeanor or a restraining order against him or her.

#### DEBATE ARISES OVER GUN-FREE SCHOOL ZONES IN MICHIGAN, OTHER STATES

Another veto by a governor in the Midwest made national news late in 2012, in part because it occurred shortly after the tragic school shootings in Newtown, Conn. The **Michigan** legislation would have allowed an individual to carry a concealed pistol in schools and other gun-free zones if he or she completed additional training. Michigan Republican Gov. Snyder expressed concern that that measure did not give local schools the choice to opt out. States often designate K-12 schools as gun-free zones. Other common gun-free zones include universities, bars, casinos, mental health centers and places of worship.

#### ACROSS MIDWEST, LEGISLATURES HAVE CONSIDERED NEW SELF-DEFENSE LAWS

According to the Law Center to Prevent Violence, seven states in the Midwest — **Indiana**, **Kansas**, **Michigan**, **North Dakota**, **Ohio**, **South Dakota** and **Wisconsin** — are among the 26 nationwide that have passed laws since 2005 that generally permit the use of deadly force in self-defense in public places. Under these state statutes (sometimes referred to as “shoot first” or “stand your ground”), individuals have no duty to retreat. (In North Dakota, Ohio and Wisconsin, the statute only applies when the shooter is in a vehicle.) **ILLINOIS** also has these general legal provisions. In **Minnesota**, a self-defense bill (HF 1467) was vetoed in 2012 by Democratic Gov. Mark Dayton, who said residents already have the right to use deadly force inside and outside their homes if it is “reasonable.” The legislation, he said, would have changed the state’s legal standard, effectively allowing “anyone to claim he or she acted reasonably when using deadly force.”

ing to own a gun — letters of reference, for example, that prove they are responsible.

Illinois and Iowa set the minimum age for possessing a handgun at 21; the nine other Midwestern states follow the federal minimum age of 18, according to the Law Center to Prevent Gun Violence.

As recent legislative trends in the Midwest show, there is general support in most states for allowing law-abiding citizens to not only own a gun, but to carry it. But within that framework, Webster says, laws can be changed to keep guns from getting to those who will most likely do harm.

Another policy option is for states to establish their own framework for licensing and monitoring gun dealers.

“It only takes a small number of licensed gun dealers who are corrupt [to pump] hundreds

of guns on the streets that pose a risk to public safety,” says Webster, adding that federal oversight is “woefully inadequate.”

In its scorecard evaluating gun dealer regulations, the Brady Campaign to Prevent Gun Violence notes that only a handful of Midwestern states — Illinois, Michigan and Wisconsin — require dealers to keep and retain records of gun purchases. Even then, Webster says, states often don’t give law enforcement enough power to revoke or suspend dealers’ licenses.

Lastly, Webster suggests two policy ideas for states to consider in response to the recent mass shootings in different parts of the country. One is to ban large-capacity ammunition magazines (prohibiting magazines of more than 10 rounds, for example). The second is to prevent gun access to individuals with severe mental health problems — for example, by

reviewing and possibly changing the criteria for gun ownership and possession.

### Lott: States have too many gun-free zones, should reconsider laws

Webster says the right mix of changes to state and federal gun policy will help close the gun marketplace for criminals and other dangerous people.

But John Lott is skeptical. Criminals will find ways around new regulations, he says, while new state laws will likely make it more difficult for everyday citizens to own and carry guns.

“You then unintentionally make it easier for an individual to commit crimes,” Lott says.

He believes the right policy response is to ensure gun access to the state’s law-abiding residents — hence the title of the former University of Chicago professor’s book “More Guns, Less Crime.”

“There are well over 8.5 million Americans that can now legally carry concealed handguns,” he notes about the recent adoption in many states of concealed-carry laws. “That’s a victory for people to be able to defend themselves.”

But Lott says states can do more, and his top priority would be eliminating statutory provisions that restrict guns in schools and other places.

“We’ve got too many gun-free zones.”

He says the mass shootings last year at a school in Connecticut and a movie theater in Colorado are two tragic cases in point. The school was a gun-free zone, he says, and the theater posted a sign telling customers that firearms were not allowed.

Concealed-carry profile: # of active permits and issuing authority (2011)			
State	# of active permits	Permits as % of state population	Issuing authority
Illinois	“No issue state”		
Indiana	406,000	8.7%	Local
Iowa	243,000	10.9%	Local
Kansas	39,000	1.9%	State
Michigan	296,000	4.1%	Local
Minnesota	91,000	2.3%	Local
Nebraska	13,000	9.9%	State
North Dakota	Not available	—	State
Ohio	270,000	3.2%	Local
South Dakota	62,000	10.6%	Local
Wisconsin	40,000	1.0%	State

Source: U.S. Government Accountability Office

According to Lott, nearly every multiple-victim shooting in this country has occurred in a place where guns are prohibited.

“The location of these attacks is not random,” he says.

“And the big thing that determines how many people die is the amount of time between when an attack starts and when somebody is able to arrive on the scene with a gun.”

Lott rejects the idea of having armed guards in every school, a response that he says would be costly and ineffective. Allowing teachers and other adults in the school to carry guns, he believes, would be a more effective deterrent and safety measure.

All states in the Midwest include schools in their list of places where guns are banned. Other common gun-free zones include universities, gaming facilities, bars, courthouses, mental health centers and places of worship. States also commonly allow private business owners to post signs designating their establishments as gun-free.

States such as Indiana, Minnesota and Ohio report that their laws already provide a path for local school officials to allow teachers and others to carry guns on school grounds.

But for the most part, schools around the country are gun-free zones.

Two years ago, legislation was introduced in Nebraska (LB 516) that would have permitted teachers and other school personnel to carry guns in schools upon approval by a two-thirds vote of the local school board. The measure did not pass.

Late in 2012, Michigan lawmakers passed a bill to allow an individual to carry a concealed pistol in schools and other gun-free zones if he or she completed additional training.

SB 59 was vetoed by Republican Gov. Rick Snyder, who said schools should be given the option to remain gun-free.

Prior to the start of the 2013 legislative sessions, lawmakers in different states were discussing the possibility of introducing new bills to remove schools from the “gun-free” designation.

Whether states act on the type of proposals recommended by Webster and Lott remains to be seen. But gun policy will be a major issue for states in 2013, particularly in the absence of any legislation from the federal government. ★

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