

INTERSTATE COMMISSION FOR ADULT OFFENDER SUPERVISION

ADVISORY OPINION

At Issue

Whether ICAOS Rule 2.105 applies to misdemeanor convictions pertaining to hunting which involve the use of a firearm and whether supervised individuals convicted and sentenced to supervision for such violations are thus subject to transfer under the compact.

Requesting State: Washington

Issued By:

Harry Hageman, Executive Director
Rick Masters, General Counsel

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Whether ICAOS Rule 2.105 applies to misdemeanor convictions pertaining to hunting which involve the use of a firearm and whether supervised individuals convicted and sentenced to supervision for such violations are thus subject to transfer under the compact.

Issued by: Harry E. Hageman, Executive Director & Richard L. Masters, Legal Counsel

Background

The State of Washington has requested an advisory opinion regarding the requirements of the Compact and ICAOS Rules when a supervised individual is convicted of a misdemeanor pertaining to hunting and involves the use of a firearm.

Applicable Rules

Rule 2.105 “Misdemeanants”

> (a) A misdemeanor supervised individual whose sentence includes 1 year or more of supervision shall be eligible for transfer, provided that all other criteria for transfer, as specified in Rule 3.101, have been satisfied; and the instant offense includes one or more of the following-- . . .(2) an offense involves the use or possession of a firearm.”

Analysis

The literal text of Rule 2.105 (a) (2) specifies, without qualification, that a supervised individual whose misdemeanor offense involves the use or possession of a firearm and whose sentence includes one year or more of supervision is eligible for transfer of supervision under the compact. While Washington questions whether individuals convicted of hunting violations pose a threat to community safety, since the express provisions of ICAOS Rule 2.105 (a) (2) are unambiguous and not contrary to the purposes of the compact this rule must be interpreted based upon its ‘plain meaning’ as provided in the regulation. *See Lyng v. Payne, 476 U.S. 926 (1986); U.S. v. Stapf, 375 U.S. 118 (1963)*.

Conclusion

ICAOS Rule 2.105 applies to all misdemeanor violations, including those pertaining to hunting, which involve the use of a firearm and individuals convicted and sentenced to supervision for such violations are thus subject to transfer under the compact.