



**Interstate Commission
for Adult Offender Supervision
ADVISORY OPINION**

Opinion Number: 1-2011
Dated: January 21, 2011

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

State Requesting: Washington

Description: Whether ICAOS Rule 2.105 applies to hunting violations which involve the use of a firearm as it relates to the transfer and supervision of misdemeanants?

Background & History:

Pursuant to Commission Rule 6.101(c) the State of Washington has requested an advisory opinion regarding the requirements of the Compact and ICAOS Rules on the following issue:

Issue:

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

Applicable Rules:

Rule 2.105 provides:

Rule 2.105 “Misdemeanants”

- (a) “A misdemeanor offender whose sentence includes one 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 and Conclusion:

The literal text of Rule 2.105 (a) (2) specifies, without qualification, that an offender 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 offenders 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).



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Description: Whether ICAOS Rule 2.105 applies to hunting violations which involve the use of a firearm as it relates to the transfer and supervision of misdemeanants?

Summary:

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