



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0209/1
ARG&CMH:cjs

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 468

December 18, 2023 – Offered by Representative BODDEN.

1 **AN ACT to amend** 165.60 and 175.35 (2k) (ar) 1.; and **to create** 175.31 and 224.60
2 of the statutes; **relating to:** prohibiting firearms merchant category codes in
3 payment card transactions and prohibiting government lists of firearm owners.

Analysis by the Legislative Reference Bureau

This bill prohibits a payment card network or its agent from requiring, as part of a payment card transaction, the use of a merchant category code that identifies the merchant as a firearms retailer. The bill also provides that the Department of Justice may not maintain a list of firearm purchasers based on information from background checks that DOJ performs and that no governmental entity may maintain a list of firearm owners. The bill requires the attorney general to enforce the prohibitions created in this bill.

Firearms codes in payment card transactions

The bill prohibits a payment card network or its agent from requiring the use of a firearms code in a way that distinguishes a firearms retailer from general merchandise retailers or sporting goods retailers. The bill defines a “payment card network” as an entity that directly or through a licensed party, processor, or agent provides the proprietary services, infrastructure, or software that routes information and data to conduct a payment card transaction in which a merchant accepts payment through a payment card. A “firearms code” is defined as a merchant

category code approved by the International Organization for Standardization specifically for firearms retailers. In addition, with limited exceptions, a payment card issuer or a payment card network or its agent may not decline or otherwise refuse to process a lawful payment card transaction based solely on the assignment or nonassignment of a firearms code. The bill defines a “payment card issuer” as an entity, including a financial institution, that is responsible for approving or declining a payment card transaction on behalf of a customer.

The bill provides the attorney general with exclusive authority to enforce these provisions. Under the bill, the attorney general must investigate alleged violations of these provisions and, upon finding a violation, must provide written notice to the person alleged to be in violation. Upon receipt of this notice, the person must cease the use of a firearms code for any merchant in this state within 30 days. If the person is still in violation after 30 days, the attorney general must pursue an injunction in court against the person.

Prohibitions on government lists of firearm owners

Current law provides that a federally licensed firearms dealer may not transfer a handgun after a sale until the dealer has requested DOJ to perform a background check on the prospective transferee to determine if he or she is prohibited from possessing a firearm under state or federal law. Unless the background check indicates that the prospective transferee is prohibited from possessing a firearm, current law requires DOJ to deny access to records regarding background checks and to destroy all such records within 30 days after the background check is complete. This bill further requires DOJ to ensure that such records are not stored, maintained, or formatted into a list that identifies persons who have purchased a firearm.

The bill also prohibits governmental entities from intentionally creating, storing, or maintaining a list of individuals who own firearms. The bill provides an exception for criminal investigations or prosecutions or for determining compliance with court orders or injunctions.

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

1 **SECTION 1.** 165.60 of the statutes is amended to read:
2 **165.60 Law enforcement.** The department of justice shall enforce ss. 175.31
3 and 224.60. The department of justice is authorized to enforce ss. 101.123 (2), (2m),
4 and (8), 175.60 (17) (e), 944.30 (1m), 944.31, 944.33, 944.34, 945.02 (2), 945.03 (1m),
5 945.04 (1m), and 948.081 and ch. 108 and, with respect to a false statement
6 submitted or made under s. 175.60 (7) (b) or (15) (b) 2. or as described under s. 175.60

1 (17) (c), to enforce s. 946.32, is authorized to assist the department of workforce
2 development in the investigation and prosecution of suspected fraudulent activity
3 related to worker's compensation as provided in s. 102.125, and is invested with the
4 powers conferred by law upon sheriffs and municipal police officers in the
5 performance of those duties. This section does not deprive or relieve sheriffs,
6 constables, and other local police officers of the power and duty to enforce those
7 sections, and those officers shall likewise enforce those sections.

8 **SECTION 2.** 175.31 of the statutes is created to read:

9 **175.31 Lists of owners of firearms.** Except for purposes of criminal
10 investigations or prosecutions or of determining compliance with court orders or
11 injunctions, no state agency, political subdivision, or special purpose district may
12 intentionally create, store, or maintain a list of individuals who own firearms.

13 **SECTION 3.** 175.35 (2k) (ar) 1. of the statutes is amended to read:

14 175.35 (2k) (ar) 1. Deny access to any record kept under this section and ensure
15 that, before records are destroyed under subd. 2., such records are not stored,
16 maintained, or formatted into a list that identifies persons who have purchased a
17 firearm. If an aggrieved party files a civil action regarding a record that was granted
18 access in violation of this subdivision, it is not a defense that the record was disclosed
19 to a federal government entity unless the disclosure was required by federal law or
20 regulation or was made in compliance with a federal safe harbor provision.

21 **SECTION 4.** 224.60 of the statutes is created to read:

22 **224.60 Prohibited merchant category codes in payment card**
23 **transactions. (1)** In this section:

24 (a) "Customer" means any resident of this state that seeks to obtain property
25 or services through a payment card transaction.

1 (b) “Financial institution” has the meaning given in s. 214.01 (1) (jn).

2 (c) “Firearms code” means a merchant category code approved by the
3 International Organization for Standardization specifically for firearms retailers.

4 (d) “Firearms retailer” means any person physically located in this state
5 engaged in the lawful business of selling or trading firearms, firearm components,
6 ammunition to be used in firearms, or firearm accessories.

7 (e) “Payment card” means a card issued to an authorized user to purchase or
8 obtain goods, services, money, or another thing of value.

9 (f) “Payment card issuer” means an entity, including a financial institution,
10 that is responsible for approving or declining a payment card transaction on behalf
11 of a customer.

12 (g) “Payment card network” means an entity that directly or through a licensed
13 party, processor, or agent provides the proprietary services, infrastructure, or
14 software that routes information and data to conduct a payment card transaction,
15 clearance, and settlement and that a merchant uses in order to accept as a form of
16 payment a payment card that may be used to carry out the payment card transaction.

17 (h) “Payment card transaction” means a transaction in which a person uses a
18 payment card issued or approved through a payment card network.

19 **(2)** A payment card network or its agent may not require the use of a firearms
20 code in a way that distinguishes a firearms retailer from general merchandise
21 retailers or sporting goods retailers.

22 **(3)** (a) Subject to par. (b), a payment card issuer or a payment card network or
23 its agent may not decline or otherwise refuse to process a lawful payment card
24 transaction at a firearms retailer based solely on the assignment or nonassignment
25 of a firearms code.

1 (b) A payment card issuer or a payment card network or its agent may decline
2 or otherwise refuse to process a lawful payment card transaction on the basis of a
3 firearms code if any of the following applies:

4 1. Doing so is necessary to comply with this section.

5 2. The customer has requested it to do so.

6 3. Doing so is necessary to comply with fraud, compliance, or risk management
7 policies, programs, practices, and other controls conducted in the normal course of
8 its business or with merchant category exclusions offered by it or with expenditure
9 controls or corporate payment card controls.

10 (4) Nothing in this section limits the ability of a payment card network or its
11 agent to negotiate with responsible parties, to comply with state or federal laws or
12 regulations, or to take any action that restricts the use or availability of a firearms
13 code in this state or otherwise impairs the payment card network's or agent's actions
14 related to dispute processing, fraud, risk management, or protecting against
15 concerns related to illegal activities, data breaches, or cyber risks.

16 (5) (a) The attorney general shall investigate alleged violations of this section
17 and, upon finding a violation, shall provide written notice to any person, whether
18 public or private, believed to be in violation of this section. Upon receipt of this
19 written notice from the attorney general, the person shall, within 30 calendar days,
20 cease the use of a firearms code for any merchant in this state.

21 (b) If a person is found to be in violation of this section after the expiration of
22 30 calendar days from the receipt of written notice from the attorney general, the
23 attorney general shall pursue an injunction against the person, which a court may
24 order in addition to any other relief the court may consider appropriate.

1 (c) The attorney general shall have exclusive authority to enforce this section.

2 (END)