



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 145
[2017 Senate Bill 408]

Firearms

2017 Wisconsin Act 145 creates new crimes relating to firearms and creates a new mandatory minimum term of confinement for certain individuals who have been convicted of a firearms related crime.

NEW FIREARMS RELATED CRIMES

Providing False Information About a Firearms Purchase

A federally licensed firearm dealer (FFL) may not transfer a handgun until the person has completed a state background check form that the dealer must use to conduct a background check. The Act requires the Department of Justice (DOJ) to ensure that this form requires the transferee to indicate that he or she is not purchasing the firearm with the purpose or intent to transfer the firearm to a person who is prohibited from possessing a firearm under state or federal law. The form must also inform the transferee of the applicable penalty, specified below.

The Act further requires a person purchasing a firearm from an FFL to indicate on the state background check form that he or she is not purchasing the firearm with the purpose or intent to transfer the firearm to a person prohibited from possessing a firearm. Under the Act, providing false information regarding whether the purpose or intent to transfer to another who the person knows or reasonably should know is prohibited from possessing a firearm is a Class H felony and must include a fine that is not less than \$500. A Class H felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed six years, or both. The Act allows DOJ or a district attorney to prosecute this crime.

Prohibitions on Straw Purchases or Being a Human Holster

Prior law generally prohibited knowingly furnishing a firearm to a person who is prohibited from possessing a firearm.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

The Act replaces this offense with a new prohibition against intentionally furnishing, purchasing, or possessing a firearm for a person, knowing that the person is prohibited from possessing a firearm. The Act provides exceptions in certain cases where a person has been designated to store the firearm. The penalty for this offense is a Class G felony, punishable by a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both.

Affirmative Defense to New Firearms Related Crimes

The Act creates an affirmative defense to the new crimes described above. Under the Act, a petitioner for a domestic abuse or child abuse injunction has an affirmative defense if the person prohibited from possessing a firearm was the respondent.

NEW MANDATORY MINIMUM SENTENCE FOR FIREARMS VIOLATIONS

The Act creates a mandatory minimum term of confinement of four years for any person convicted of a firearms violation who has been convicted of one felony or three misdemeanors within five years of the commission of the crime. Under the Act, a “firearms violation” is a violation of the straw purchases prohibition, described above, illegal possession of a firearm,¹ or commission of any crime in the Criminal Code or Uniform Controlled Substances Act if the person uses a firearm in the commission of the crime. This mandatory minimum does not apply to sentences imposed after July 1, 2022.

The Act requires DOJ, after consulting with the City of Milwaukee and the Milwaukee Police Department, to provide the Legislature a report on the efficacy of the new mandatory minimum sentence for firearms violations by August 1, 2022.

Effective date and initial applicability: The Act took effect on March 30, 2018. The changes made regarding false information provided on a state background check form first apply to offenses committed on the Act’s effective date. The new mandatory minimum sentence for firearms violations first applies to offenses committed on the Act’s effective date, but does not preclude counting prior offenses for sentencing purposes.

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¹ Similar to the new straw purchasers prohibition, violations of the state possession law are punishable by a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both.