



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 65

**Assembly Substitute
Amendment 1, as Amended**

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2017 ASSEMBLY BILL 65

2017 Assembly Bill 65 creates a new prohibition, which has the effect of generally requiring firearms sales and transfers to be made through a federally licensed firearms dealer. Specifically, under the bill, no person may sell, transfer, purchase, or obtain ownership of a firearm, unless one of the following situations applies:

- The seller or transferor is a federally licensed firearms dealer.
- The seller or transferor makes the sale or transfer to or through a federally licensed firearms dealer.
- The transfer is of a handgun classified under federal regulations as an antique.
- The transfer is between a firearms wholesaler and a federally licensed dealer.
- The transfer is of a handgun to law enforcement or an armed services agency.
- The transferor is transferring ownership of a firearm to a family member by gift, bequest, or inheritance to a transferee who is at least 18 years old and who is not prohibited from possessing a firearm under state law.
- The transferor is transferring ownership of a firearm with the intent that the transfer be temporary, and the transfer is not otherwise prohibited by law.

The bill establishes criminal penalties for violations of the prohibition described above.

ASSEMBLY SUBSTITUTE AMENDMENT 1, AS AMENDED BY ASSEMBLY AMENDMENT 1, AS AMENDED, AND ASSEMBLY AMENDMENT 2

Assembly Substitute Amendment 1, as amended by Assembly Amendment 1, as amended, and Assembly Amendment 2 (“the substitute amendment”), replaces all of the provisions of the bill with changes to current law relating to grants for armed school safety officers; straw purchases; and minimum sentencing for certain repeat offenders. The provisions of the substitute amendment relating to straw purchases and minimum sentencing appear to be very similar to provisions in 2017 Senate Bill 408, a bill passed by the Senate and concurred in by the Assembly.

Grants for Armed School Safety Officers

The substitute amendment authorizes the Department of Justice (DOJ) to provide grants to school districts to employ current or former law enforcement officers as armed school safety officers. The source of funding for any such grants is an existing DOJ appropriation for gifts, grants, and proceeds from certain sales of publications and promotional materials.

A school district that receives a grant under the substitute amendment may expend the grant moneys only on costs associated with employing armed school safety officers. The substitute amendment requires school districts’ grant applications to include proposed plans of expenditure and to provide that any armed school safety officer must report to the principal of the school at which he or she is assigned.

The substitute amendment provides for a three-year grant period. It requires a grant to cover 75% of the relevant costs in the first year; 50% in the second year; and 25% in the third year.

Finally, the substitute amendment requires DOJ to indemnify a school district that receives a grant under the substitute amendment, and an armed school safety officer employed using such grant funds, for any actions taken in good faith.

Prohibition on Straw Purchases

Current federal law prohibits what is sometimes referred to as a “straw purchase” for firearms, if a person provides false information about the lawfulness of the purchase when the purchase is made on behalf of a person who is prohibited from possessing a firearm. [18 U.S.C. s. 922 (a) (6).] Wisconsin law does not currently prohibit the act of providing false information with the intent to transfer a firearm to a person prohibited from possessing a firearm in the same manner as under federal law.¹

¹ However, under current state law, a person who knowingly furnishes a firearm to an individual who is prohibited from possessing a firearm is guilty of a Class G felony, subject to a fine up to \$25,000, and imprisonment up to 10 years. [s. 941.29 (4), Stats.]

The substitute amendment creates a new state crime relating to straw purchases. Under the substitute amendment, a person who intentionally furnishes, purchases, or possesses a firearm for a person, knowing that the person is prohibited from possessing a firearm under state law, is guilty of a Class G felony, unless an exception applies. The prohibition under the substitute amendment does not apply to the possession of a firearm by a person to whom the firearm is surrendered under a court-ordered injunction for child abuse, domestic abuse, harassment, or danger to an individual at risk; a person who has been designated to temporarily store a firearm in connection with certain involuntary commitments for treatment under the Mental Health Act or certain guardianship or protective services proceedings; or a person who has otherwise been designated to store a firearm during the duration of any temporary prohibition on the possession of a firearm.

Minimum Sentence for Repeat Firearm Offenses

The substitute amendment creates a temporary minimum sentencing requirement for persons with certain prior convictions who are convicted of specified firearm offenses. Specifically, beginning with offenses committed on the date the substitute amendment takes effect, and ending with sentences imposed on July 1, 2022, the substitute amendment requires Wisconsin courts to impose a term of imprisonment of at least four years, as part of a bifurcated sentence, if both of the following conditions apply:

- The person is convicted of a “firearm violation,” defined to include the commission of any crime in the state Criminal Code or under the state Uniform Controlled Substances Act, if the person uses a firearm to commit the crime, or a violation of state firearm possession laws.
- The person is a “repeater,” defined to mean a person who was convicted of either one or more felonies or three or more misdemeanors (on three separate occasions) during the five-year period immediately preceding the commission of the crime for which the person is currently being sentenced.

The substitute amendment requires DOJ to submit a report to the Legislature regarding the efficacy of the mandatory sentencing requirement by August 1, 2022.

BILL HISTORY

On February 20, 2018, Assembly Bill 65 was withdrawn from the Assembly Committee on State Affairs and taken up by the Assembly. Representative Kleefisch offered Assembly Substitute Amendment 1, which replaced the contents of the bill with provisions relating to grants for armed school safety officers. A point of order that Assembly Substitute Amendment 1 was not germane was ruled not well taken.

Representative Spreitzer offered Assembly Amendment 1 to the substitute amendment, which replaced the contents of the substitute amendment with provisions similar to those in the bill, as introduced. Representative Sanfelippo then offered Assembly Amendment 1 to Assembly Amendment 1 to the substitute amendment; the amendment offered by

Representative Sanfelippo replaced the contents of Assembly Amendment 1 to the substitute amendment with the provisions described above, relating to grants for armed school safety officers, straw purchasers, and a mandatory minimum sentence for certain repeat offenders. The Assembly adopted Assembly Amendment 1 to Assembly Amendment 1 to the substitute amendment on a vote of Ayes, 68; Noes, 27, and Assembly Amendment 1 to the substitute amendment on a voice vote.

Representatives Pope and Barca then offered Assembly Amendment 2 to the substitute amendment, as amended; that amendment removed a provision that required grants for armed school safety officers to be expended only in schools that have students in grades five to 12. The Assembly adopted Assembly Amendment 2 to the substitute amendment on a voice vote. The Assembly then adopted Assembly Substitute Amendment 1, as amended, on a vote of Ayes, 64; Noes, 31, and passed the bill, as amended, on a vote of Ayes, 71; Noes, 24.

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