



2009 SENATE BILL 367

October 23, 2009 – Introduced by Senators COGGS, TAYLOR and LASSA, cosponsored by Representatives RICHARDS, STASKUNAS, TURNER, YOUNG, SINICKI, BERCEAU, COLON, GRIGSBY, FIELDS, PASCH, KESSLER, ZEPNICK and TOLES. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT to amend** 165.83 (2) (d), 175.37 (title) and 175.37 (2); and **to create**
2 165.83 (2) (dd), 175.36 and 175.37 (1m) of the statutes; **relating to:** requiring
3 a person to report a stolen or lost firearm, creating a database for stolen and lost
4 firearms, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, a person who owns a firearm that is stolen or missing must report the theft or loss to a law enforcement agency within 48 hours of discovering the theft or loss. A person who violates this requirement is guilty of a misdemeanor. If the violation is the person's first violation, he or she is subject to a fine of up to \$1,000 or a sentence of imprisonment of up to 90 days, or both. If the violation is the person's second or subsequent violation, he or she is subject to a fine of up to \$10,000 or a sentence of imprisonment of up to nine months, or both. A person who falsely reports a stolen or lost firearm is guilty of obstructing an officer and is subject to a fine of up to \$10,000 or a sentence of imprisonment of up to nine months, or both.

Under current law, a person who commercially transfers or sells a firearm to another person must provide the other person a written warning that he or she may be fined or imprisoned for leaving a loaded firearm within the easy access of a child if the child improperly possesses, discharges, or exhibits the firearm. This bill requires the seller or transferor to provide the other person a written notice of the requirement, created in this bill, to report a theft or loss of a firearm within 48 hours of discovering it. A seller or transferor who violates this requirement is subject to a fine of up to \$500 or imprisonment for up to 30 days, or both.

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Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 165.83 (2) (d) of the statutes is amended to read:

2 165.83 (2) (d) ~~Obtain~~ Except as provided in par. (dd), obtain and file
3 information relating to identifiable stolen or lost property.

4 **SECTION 2.** 165.83 (2) (dd) of the statutes is created to read:

5 165.83 (2) (dd) 1. If a law enforcement agency forwards a file under s. 175.36
6 (2) (a) 2. to the department, put the file in a database that is created for stolen or lost
7 firearms and make the database available to law enforcement agencies for the
8 purpose of locating and identifying stolen or lost firearms and identifying violators
9 of s. 175.36 (1).

10 2. If a law enforcement agency notifies the department under s. 175.36 (2) (b)
11 that a stolen or lost firearm has been recovered, add to the database a notation that
12 the firearm has been recovered and the date on which it was recovered.

13 **SECTION 3.** 175.36 of the statutes is created to read:

14 **175.36 Reporting stolen or lost firearm.** (1) (a) A person who owns a
15 firearm and who discovers that the firearm is stolen or lost shall, within 48 hours of
16 the discovery, report the theft or loss to a law enforcement agency that has
17 jurisdiction over the area in which the firearm was stolen or lost.

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1 (b) If a person who has reported a theft or loss under par. (a) recovers the
2 firearm, the person shall report as soon as practicable to a law enforcement agency
3 the date on which the firearm was recovered.

4 **(2)** (a) A law enforcement agency that receives under sub. (1) (a) a report of a
5 stolen or lost firearm shall do all of the following:

6 1. Create a file that includes as much of the following information as is
7 available:

8 a. The date on which the firearm was stolen or lost.

9 b. The caliber, make, and model of the firearm.

10 c. The serial number of the firearm.

11 d. Any distinguishing mark on the firearm.

12 e. The location at which the firearm was purchased by, or transferred to, the
13 person making the report under sub. (1) (a).

14 2. As soon as practicable, forward a copy of the file created under subd. 1. to the
15 department of justice for inclusion in a database under s. 165.83 (2) (dd).

16 (b) A law enforcement agency that receives under sub. (1) (b) a report of a
17 recovered firearm shall report to the department of justice the date on which the
18 firearm was recovered.

19 **(3)** A person who reports under sub. (1) (a) a stolen or lost firearm, when he or
20 she knows that the report is false, is subject to the penalty for obstructing a law
21 enforcement officer under s. 946.41, even if the report is made to an employee of the
22 law enforcement agency who is not a law enforcement officer.

23 **(4)** A person who violates sub. (1) (a) is guilty of the following:

24 (a) Except as provided in par. (b), a Class B misdemeanor.

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1 (b) If the violation is the person's 2nd or subsequent offense, a Class A
2 misdemeanor.

3 **SECTION 4.** 175.37 (title) of the statutes is amended to read:

4 **175.37 (title) Warning Requirements whenever transferring a firearm.**

5 **SECTION 5.** 175.37 (1m) of the statutes is created to read:

6 **175.37 (1m)** Upon the retail commercial sale or retail commercial transfer of
7 any firearm, the seller or transferor shall provide to the buyer or transferee a written
8 notice of the requirements under s. 175.36 (1) and of the penalties under s. 175.36
9 (4).

10 **SECTION 6.** 175.37 (2) of the statutes is amended to read:

11 **175.37 (2)** Any person who violates sub. (1) or (1m) may be fined not more than
12 \$500 or imprisoned for not more than 30 days or both.

13 **SECTION 7. Initial applicability.**

14 (1) The treatment of section 175.36 (1) (a) of the statutes first applies to
15 discoveries of stolen or lost firearms on the effective date of this subsection.

16 (2) The treatment of section 175.37 (1m) of the statutes first applies to sales and
17 transfers that occur on the effective date of this subsection.

18 (END)