

1991 Assembly Bill 179

Date of enactment: **April 26, 1991**
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1991 WISCONSIN ACT 11

AN ACT to repeal 165.825; to renumber and amend 175.35 (1); to amend 165.82 (1) (intro.), 165.82 (2) and 175.35 (3); to repeal and recreate 175.35 (2); and to create 20.455 (2) (gr), 175.35 (1) (intro.), 175.35 (1) (a), 175.35 (1) (c), 175.35 (2e), 175.35 (2f), 175.35 (2g), 175.35 (2h), 175.35 (2i), 175.35 (2j), 175.35 (2k), 175.35 (2L) and 175.35 (2t) of the statutes, **relating to:** firearm transfers, providing penalties, granting rule-making authority and making an appropriation.

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

SECTION 1. 20.455 (2) (gr) of the statutes is created to read:

20.455 (2) (gr) *Handgun purchaser record check.* All moneys received as fee payments under s. 175.35 (2i) to provide services under s. 175.35.

SECTION 2. 165.82 (1) (intro.) of the statutes is amended to read:

165.82 (1) (intro.) Notwithstanding s. 19.35 (3), the department of justice shall impose the following fees for criminal history searches for purposes unrelated to criminal justice or, before July 1, 1993, to s. ~~165.825~~ 175.35:

SECTION 3. 165.82 (2) of the statutes is amended to read:

165.82 (2) ~~The~~ Except as provided in s. 175.35, the department of justice shall not impose fees for criminal history searches for purposes related to criminal justice or, before July 1, 1993, to s. 165.825.

SECTION 4. 165.825 of the statutes is repealed.

SECTION 5. 175.35 (1) of the statutes is renumbered 175.35 (1) (b) and amended to read:

175.35 (1) (b) ~~In this section, "handgun"~~ "Handgun" means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.

SECTION 6. 175.35 (1) (intro.) of the statutes is created to read:

175.35 (1) (intro.) In this section:

SECTION 7. 175.35 (1) (a) of the statutes is created to read:

175.35 (1) (a) "Firearms dealer" means any person engaged in the business of importing, manufacturing or dealing in firearms and having a license as an importer, manufacturer or dealer issued by the U.S. department of the treasury.

SECTION 8. 175.35 (1) (c) of the statutes is created to read:

175.35 (1) (c) "Working day" means each day except Saturday, Sunday or a legal holiday under s. 895.20.

SECTION 9. 175.35 (2) of the statutes is repealed and recreated to read:

175.35 (2) When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun to any other person until all of the following have occurred:

(a) The transferee has provided identification as required by rule under sub. (2g) (a).

(b) The transferee has completed the notification form described in sub. (2g) (b).

(c) The firearms dealer has conveyed the information from the completed notification form to the department of justice as required by rule under sub. (2g) (b) and requested a criminal history record search.

(d) Forty–eight hours, subject to extension under sub. (2g) (c) 4. c., have elapsed from the time that the firearms dealer has received a confirmation number regarding the criminal history record search under sub. (2g) (c) from the department of justice and the firearms dealer has not been notified that the transfer would be in violation of s. 941.29.

SECTION 10. 175.35 (2e) of the statutes is created to read:

175.35 (2e) When a transferee completes the notification form described in sub. (2g) (b), the transferee shall provide truthful information.

SECTION 11. 175.35 (2f) of the statutes is created to read:

175.35 (2f) When a firearms dealer requests that the department of justice provide a criminal history record search under sub. (2g), he or she shall provide truthful information about his or her status as a firearms dealer and shall provide an accurate firearms dealer identification number obtained under sub. (2h). A person may request that the department provide a criminal history record search under sub. (2g) only if he or she is a firearms dealer.

SECTION 12. 175.35 (2g) of the statutes is created to read:

175.35 (2g) (a) The department of justice shall promulgate rules prescribing procedures for a transferee to provide and a firearms dealer to inspect identification containing a photograph of the transferee.

(b) The department of justice shall promulgate rules prescribing a notification form for use under sub. (2) requiring the transferee to provide his or her name, date of birth, gender, race and social security number and other identification necessary to permit an accurate criminal history record search under par. (c) 3. and the required notification under par. (c) 4. The department of justice shall make the forms available at locations throughout the state.

(c) The department of justice shall promulgate rules for criminal history record searches regarding transferees under sub. (2), including procedures for all of the following:

1. A firearms dealer to convey the information from a completed notification form to the department using a toll–free telephone number provided by the department.

2. The department to provide the firearms dealer with a confirmation number confirming the receipt of the information under subd. 1.

3. The department to conduct the criminal history record search regarding the transferee. The rules shall include, but not be limited to, a requirement that the department use the transaction management of enforcement system and the national crime information center system.

4. The department to notify the dealer, either during the initial telephone call or as soon thereafter as practica-

ble, of the results of the criminal history record search as follows:

a. If the search indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique nonapproval number.

b. If the search indicates that the transferee is not prohibited from possessing a firearm under s. 941.29, the department shall provide the firearms dealer with a unique approval number.

c. If the search indicates a felony charge without a recorded disposition, the deadline under sub. (2) (d) is extended to the end of the 3rd complete working day commencing after the day on which the finding is made. The department shall notify the firearms dealer of the extension as soon as practicable. During the extended period, the department shall make every reasonable effort to determine the disposition of the charge and notify the firearms dealer of the results as soon as practicable.

SECTION 13. 175.35 (2h) of the statutes is created to read:

175.35 (2h) Upon the request of any firearms dealer, the department of justice shall provide that firearms dealer with a unique firearms dealer identification number for use under this section.

SECTION 14. 175.35 (2i) of the statutes is created to read:

175.35 (2i) The department shall charge a firearms dealer a \$5 fee for each criminal history record search that the firearms dealer requests under sub. (2) (c). The firearms dealer may collect the fee from the transferee. The department may refuse to conduct criminal history record searches for any firearms dealer who fails to pay any fee under this subsection within 30 days after billing by the department.

SECTION 15. 175.35 (2j) of the statutes is created to read:

175.35 (2j) A firearms dealer shall maintain the original record of all completed notification forms and a record of all confirmation numbers and corresponding approval or nonapproval numbers that he or she receives regarding criminal history record searches under sub. (2g). The firearms dealer shall mail the duplicate copy of each completed notification form to the department of justice.

SECTION 16. 175.35 (2k) of the statutes is created to read:

175.35 (2k) (a) Except as provided in par. (b) and as necessary to administer this section, the department of justice shall do all of the following:

1. Deny access to any record kept under this section.

2. Check each duplicate notification form received under sub. (2j) against the information recorded by the department regarding the corresponding request for a criminal history record search under sub. (2g). If the

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department previously provided a unique approval number regarding the request and nothing in the duplicate completed notification form indicates that the transferee is prohibited from possessing a firearm under s. 941.29, the department shall destroy all records regarding that criminal history record search within 30 days after receiving the duplicate form.

(b) Notwithstanding par. (a), the department of justice may maintain all of the following:

1. Records necessary to comply with federal law.

2. a. Except as provided in subd. 2. b., a log of dates of requests for criminal history record searches under sub. (2g) together with confirmation numbers, unique approval and nonapproval numbers and firearms dealer identification numbers corresponding to those dates.

b. Within 3 years after the department issues a unique approval number, the department shall destroy all corresponding information contained in the log under subd. 2. a.

3. Records necessary to administer this section.

SECTION 17. 175.35 (2L) of the statutes is created to read:

175.35 (2L) The department of justice shall promulgate rules providing for the review of nonapprovals under sub. (2g) (c) 4. a. Any person who is denied the right to purchase a handgun because the firearms dealer received

a nonapproval number under sub. (2g) (c) 4. a. may request a criminal history record search review under those rules. If the person disagrees with the results of that review, the person may file an appeal under rules promulgated by the department.

SECTION 18. 175.35 (2t) of the statutes is created to read:

175.35 (2t) This section does not apply to any of the following:

(a) Transfers of any handgun classified as an antique by regulations of the U.S. department of the treasury.

(b) Transfers of any handgun between firearms dealers or between wholesalers and dealers.

(c) Transfers of any handgun to law enforcement or armed services agencies.

SECTION 19. 175.35 (3) of the statutes is amended to read:

175.35 (3) Any person who intentionally violates sub. (2) ~~(a) may, (2e), (2f) or (2j) shall~~ be fined not less than \$500 nor more than \$250 or \$10,000 and may be imprisoned for not more than 6 9 months or both.

SECTION 20. Initial applicability. This act first applies to handgun sales on the effective date of this SECTION.

SECTION 21. Effective date. This act takes effect on the first day of the 7th month beginning after publication.