

**SENATE SUBSTITUTE AMENDMENT 2,  
TO 1999 SENATE BILL 6**

June 15, 1999 – Offered by Senators BRESKE, SHIBILSKI, MOEN, DECKER, WIRCH and  
BAUMGART.

1 **AN ACT to create** 175.36 and 895.59 of the statutes; **relating to:** transfer of  
2 handguns, immunity from liability and providing a penalty.

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

3 **SECTION 1.** 175.36 of the statutes is created to read:

4 **175.36 Transfer of handguns; secure gun storage or safety device**  
5 **required. (1) DEFINITIONS.** In this section:

6 (a) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

7 (b) “Governmental unit” has the meaning given in s. 939.648 (1).

8 (c) “Handgun” has the meaning given in s. 175.35 (1) (b).

9 (d) “Law enforcement officer” means a Wisconsin law enforcement officer, as  
10 defined in s. 175.46 (1) (g), or a federal law enforcement officer, as defined in s. 175.40  
11 (7) (a) 1.

12 (e) “Secure storage or safety device” means any of the following:

1           1. A device that, when installed on a firearm, is designed to prevent the firearm  
2 from being discharged unless the device is deactivated or removed.

3           2. A device incorporated into the design of a firearm that is designed to prevent  
4 the firearm from being discharged by a person who does not have authorized access  
5 to the key, combination or other means for deactivating the device.

6           3. A safe, gun safe, gun case, lockbox or other device that is designed to be used  
7 or may be used to store a firearm and that is designed to be unlocked only by means  
8 of a key, a combination or similar means.

9           **(2)** SECURE STORAGE OR SAFETY DEVICE REQUIRED FOR CERTAIN SALES OR TRANSFERS  
10 OF A HANDGUN. (a) Except as provided in pars. (b) and (c), when a firearms dealer sells  
11 or transfers any handgun, the firearms dealer may not transfer possession of the  
12 handgun to another person unless the firearms dealer provides the person taking  
13 possession of the handgun with a secure storage or safety device for the handgun.

14           (b) If secure storage or safety devices are temporarily unavailable at the time  
15 of the transfer of a handgun because of theft, casualty loss, sales to consumers, back  
16 orders to a manufacturer or other reason beyond the control of the firearms dealer,  
17 the firearms dealer may transfer possession of the handgun without providing a  
18 secure storage or safety device for the handgun. Except as provided in par. (c), if a  
19 firearms dealer transfers possession of a handgun under this paragraph without  
20 providing a secure storage or safety device, the firearms dealer shall provide a secure  
21 storage or safety device for the handgun to the person to whom the handgun was  
22 transferred no later than 10 calendar days after the date on which a secure storage  
23 or safety device becomes available.

1 (c) A firearms dealer may transfer possession of a handgun to another person  
2 without providing a secure storage or safety device for the handgun if any of the  
3 following applies:

4 1. The person taking possession of the handgun is another firearms dealer.

5 2. The person taking possession of the handgun is a governmental unit.

6 3. The person taking possession of the handgun is a law enforcement officer  
7 who is required to possess the handgun as a condition of employment.

8 4. The handgun is an antique, as defined in 18 USC 921 (a) (16), or is classified  
9 as a curio or relic by regulations of the U.S. department of the treasury under 18 USC  
10 921 (a) (13).

11 (d) Paragraph (a) does not prohibit a firearms dealer from charging the person  
12 who is buying a handgun or the person to whom a handgun is being transferred for  
13 the secure storage or safety device in addition to the purchase price charged for the  
14 handgun.

15 **(3) PENALTY.** Any person who violates this section may be fined not more than  
16 \$500 or imprisoned for not more than 30 days or both.

17 **(4) NO CAUSE OF ACTION CREATED.** This section does not create a cause of action  
18 against a firearms dealer or establish any special standard of care.

19 **SECTION 2.** 895.59 of the statutes is created to read:

20 **895.59 Liability exemption; secure handguns.** (1) A person who has  
21 lawful possession and control of a handgun, as defined in s. 175.36 (1) (c), and who  
22 uses a secure storage or safety device, as defined in s. 175.36 (1) (e), for that handgun  
23 is immune from civil liability for any damages resulting from the use of the handgun  
24 if all of the following conditions apply:

1 (a) The handgun was obtained by another person without the authorization of  
2 the person who had lawful possession and control of the handgun.

3 (b) The person who had lawful possession and control of the handgun had used  
4 a secure storage or safety device, as defined in s. 175.36 (1) (e), for that handgun at  
5 the time that the other person obtained unauthorized possession of the handgun.

6 **(2)** Subsection (1) does not provide immunity for a person who had lawful  
7 possession and control of the handgun if that person is negligent in the use of the  
8 handgun or in the entrustment of the handgun to another person.

9 **SECTION 3. Initial applicability.**

10 (1) **SECURE STORAGE OR SAFETY DEVICE REQUIRED UPON TRANSFER OF HANDGUN.** The  
11 treatment of section 175.36 of the statutes first applies to the transfer of a handgun  
12 that occurs on the effective date of this subsection.

13 (2) **IMMUNITY FROM LIABILITY.** The treatment of section 895.59 of the statutes  
14 first applies to damages incurred on the effective date of this subsection.

15 **SECTION 4. Effective date.**

16 (1) This act takes effect on the first day of the 4th month beginning after  
17 publication.

18 **(END)**