

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB6)**

Received: **06/12/99**

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Roger Breske (608) 266-2509**

By/Representing: **Vaughn**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters: **nelsorp1**

Subject: **Courts - immunity liability  
Criminal Law - guns and weapons**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Secure gun storage or safety device

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**Instructions:**

See Attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>                              | <u>Reviewed</u>      | <u>Typed</u>        | <u>Proofed</u> | <u>Submitted</u>         | <u>Jacketed</u>          | <u>Required</u> |
|--------------|---------------------------------------------|----------------------|---------------------|----------------|--------------------------|--------------------------|-----------------|
| /1           | olsenje<br>06/12/99<br>nelsorp1<br>06/13/99 | chanaman<br>06/14/99 | martykr<br>06/14/99 | _____          | lrb_docadmin<br>06/14/99 | lrb_docadmin<br>06/14/99 |                 |
| /2           | olsenje<br>06/14/99                         | chanaman<br>06/14/99 | haugeca<br>06/15/99 | _____          | lrb_docadmin<br>06/15/99 | lrb_docadmin<br>06/15/99 |                 |

FE Sent For:

<END>

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|--------------|---------------------------------------------|---------------------------------------------|-------------------------------------------|-------------------------------------|--------------------------|--------------------------|-----------------|
| /1           | olsenje<br>06/12/99<br>nelsorp1<br>06/13/99 | chanaman<br>06/14/99<br><i>cmr<br/>6/14</i> | martykr<br>06/14/99<br><i>ch<br/>6-14</i> | <u>        </u><br><i>6h<br/>HM</i> | lrb_docadmin<br>06/14/99 | lrb_docadmin<br>06/14/99 |                 |
| FE Sent For: |                                             | <i>1/3</i>                                  |                                           | <i>HM</i>                           |                          |                          |                 |

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/?          | olsenje        | cmh<br>6/11/99  | km 6/14      | JA<br>km 6/14  |                  |                 |                 |

FE Sent For:

<END>

S8093

# ROGER BRESKE

STATE SENATOR

12th District

Capitol Address:  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
(608) 266-2509

Home Address:  
8800 Hwy. 29  
Eland, WI 54427  
(715) 454-6575

Legislative Hotline:  
1 (800) 362-9472



## MEMORANDUM

June 11, 1999

TO: Jefren E. Olsen, Attorney  
Legislative Reference Bureau  
FR: Vaughn L. Vance for [Signature]  
State Senator Roger Breske  
RE: Substitute Amendment – Senate Bill 6

Roger is requesting that you draft a Substitute Amendment for Senate Bill 6. This Substitute Amendment would incorporate provisions of the federal "Kolbe proposal" which is attached for your reference. Roger would also like to substitute the definition of a "secure gun storage or safety device" of the so-called Craig Amendment which is also attached. Roger is fine with the penalty provisions of SB6 -- \$500 and/or 30 days imprisonment.

**PLEASE NOTE: It is likely that this legislation will be scheduled for consideration as early as Tuesday, June 15<sup>th</sup>.**

Please feel free to give me a call at 6-2509 if you have any questions or concerns about this request.

MAY-21-1999 17:10

NRA FEDERAL AFFAIRS

2826512577 P.02/07

F:\MS\KOLBE\KOLBE.030

H.L.C.



ATTN: Vaughn  
Vance

1 including hunting, self-defense, collecting and com-  
2 petitive or recreational shooting.

3 FIREARMS SAFETY

4 SEC. 12. (a) UNLAWFUL ACTS.—

5 (1) MANDATORY TRANSFER OF SECURE GUN  
6 STORAGE OR SAFETY DEVICE.—Section 922 of title  
7 18, United States Code, is amended by inserting  
8 after subsection (y) the following:

9 “(2) SECURE GUN STORAGE OR SAFETY DEVICE.—

10 “(1) IN GENERAL.—Except as provided in para-  
11 graph (2), it shall be unlawful for any licensed man-  
12 ufacturer, licensed importer, or licensed dealer to  
13 sell, deliver, or transfer any handgun to any person  
14 other than any person licensed under the provisions  
15 of this chapter, unless the transferee is provided  
16 with a secure gun storage or safety device, as de-  
17 scribed in section 921(a)(35) of this chapter, for  
18 that handgun.

19 “(2) EXCEPTIONS.—Paragraph (1) does not  
20 apply to the—

21 “(A)(i) manufacture for, transfer to, or  
22 possession by, the United States or a State or  
23 a department or agency of the United States, or  
24 a State or a department, agency, or political  
25 subdivision of a State, of a handgun; or

May 20, 1999 (2:12 a.m.)



MAY-21-1999 17:10

NRA FEDERAL AFFAIRS

2026512577 P.03/07

F:\MS\KOLBE\KOLBE.020

H.L.C.

1           “(ii) transfer to, or possession by, a law  
 2 enforcement officer employed by an entity re-  
 3 ferred to in clause (i) of a handgun for law en-  
 4 forcement purposes (whether on or off duty); or

5           “(B) transfer to, or possession by, a rail  
 6 police officer employed by a rail carrier and cer-  
 7 tified or commissioned as a police officer under  
 8 the laws of a State of a handgun for purposes  
 9 of law enforcement (whether on or off duty);

10           “(C) transfer to any person of a handgun  
 11 listed as a curio or relic by the Secretary pursu-  
 12 ant to section 921(a)(13); or

13           “(D) transfer to any person of a handgun  
 14 for which a secure gun storage or safety device  
 15 is temporarily unavailable for the reasons de-  
 16 scribed in the exceptions stated in section  
 17 929(c), provided that the licensed manufac-  
 18 turer, licensed importer, or licensed dealer de-  
 19 livers to the transferee within 10 calendar days  
 20 from the date of the delivery of the handgun to  
 21 the transferee a secure gun storage or safety  
 22 device for the handgun.

23           “(3) LIABILITY FOR USE.—(A) Notwithstand-  
 24 ing any other provision of law, a person who has  
 25 lawful possession and control of a handgun, and who

May 20, 1999 (2:12 a.m.)

V.  
 (2)

MAY-21-1999 17:11

NRA FEDERAL AFFAIRS

2026512577 P.04/07

F:\MS\KOLBE\KOLBE.020

R.L.C.

1 uses a secure gun storage or safety device with the  
 2 handgun. shall be entitled to immunity from a civil  
 3 liability action as described in this paragraph.

4 "(B) PROSPECTIVE ACTIONS.—A qualified civil  
 5 liability action may not be brought in any federal or  
 6 State court. The term qualified civil liability action'  
 7 means a civil action brought by any person against  
 8 a person described in subparagraph (A) for damages  
 9 resulting from the criminal or unlawful misuse of  
 10 the handgun by a third party, where—

11 "(i) the handgun was accessed by another  
 12 person who did not have the permission or au-  
 13 thorization of the person having lawful posses-  
 14 sion and control of the handgun to have access  
 15 to it; and

16 (ii) at the time access was gained by the  
 17 person not so authorized, the handgun had been  
 18 made inoperable by use of a secure gun storage  
 19 or safety device.

20 A qualified civil liability action shall not include an  
 21 action brought against the person having lawful pos-  
 22 session and control of the handgun for negligent en-  
 23 trustment or negligence per se."

24 (b) CIVIL PENALTIES.—Section 924 of title 18,  
 25 United States Code, is amended—

*Provisions of  
 536  
 \$500 and/or 30 days  
 OK.  
 (3)*

May 20, 1999 (2:12 a.m.)

MAY-21-1999 17:11

NRA FEDERAL AFFAIRS

2026512577 P.05/07

F:\MS\KOLBE\KOLBE.020

H.L.C.

21

1 (1) in subsection (a)(1), by striking "or (f)"  
 2 and inserting "(f), or (p)"; and  
 3 (2) by adding at the end the following:  
 4 "(p) PENALTIES RELATING TO SECURE GUN STOR-  
 5 AGE OR SAFETY DEVICE.—

6 "(1) IN GENERAL.—

7 "(A) SUSPENSION OR REVOCATION OF LI-  
 8 CENSE; CIVIL PENALTIES.—With respect to  
 9 each violation of section 922(e)(1) by a licensed  
 10 manufacturer, licensed importer, or licensed  
 11 dealer, the Secretary may, after notice and op-  
 12 portunity for hearing—

13 "(i) suspend for up to six months, or  
 14 revoke, the license issued to the licensee  
 15 under this chapter that was used to con-  
 16 duct the firearms transfer; or

17 "(ii) subject the licensee to a civil  
 18 penalty in an amount equal to not more  
 19 than \$2,500.

20 "(B) REVIEW.—An action of the Secretary  
 21 under this paragraph may be reviewed only as  
 22 provided in section 923(f).

23 "(2) ADMINISTRATIVE REMEDIES.—The sus-  
 24 pension or revocation of a license or the imposition  
 25 of a civil penalty under paragraph (1) does not pre-

*Federal*

May 20, 1999 (12:12 a.m.)

4



1 clude any administrative remedy that is otherwise  
2 available to the Secretary.”

3 (c) LIABILITY; EVIDENCE.—

4 (1) LIABILITY.—Nothing in this section shall be  
5 construed to—

6 (A) create a cause of action against any  
7 federal firearms licensee or any other person for  
8 any civil liability; or

9 (B) establish any standard of care.

10 (2) EVIDENCE.—Notwithstanding any other  
11 provision of law, evidence regarding compliance or  
12 noncompliance with the amendments made by this  
13 section shall not be admissible as evidence in any  
14 proceeding of any court, agency, board, or other en-  
15 tity, except with respect to an action to enforce  
16 paragraphs (1) and (2) of section 922(z) of title 18,  
17 United States Code, or to give effect to paragraph  
18 (3) of such section 922(z).

19 (3) RULE OF CONSTRUCTION.—Nothing in this  
20 subsection shall be construed to bar a governmental  
21 action to impose a penalty under 924(p) of title 18,  
22 United States Code, for a failure to comply with sec-  
23 tion 922(z) of that title.

← Can we also incorporate this?  
—WJr.

May 20, 1999 (2:12 a.m.)

5

MAY-21-1999 17:11

NRA FEDERAL AFFAIRS

2026512577 P.07/07

F:\MS\KOLBE\KOLBE.020

H.L.C.

1 EFFECTIVE DATE  
 2 SEC. \_\_\_\_13. The amendments made by section  
 3 \_\_\_\_12 shall take effect 180 days after the date of enact-  
 4 ment of this Act.

5 PROHIBITION ON FIREARMS POSSESSION BY VIOLENT  
 6 JUVENILE OFFENDERS  
 7 PROHIBITION ON FIREARMS POSSESSION BY VIOLENT  
 8 JUVENILE OFFENDERS

*Federal*

9 SEC. \_\_\_\_21. (a) DEFINITION.—Section 921(a)(20)  
 10 of title 18, United States Code, is amended—

- 11 (1) by inserting "(A)" after "(20)";
- 12 (2) by redesignating subparagraphs (A) and
- 13 (B) as clauses (i) and (ii), respectively;
- 14 (3) by inserting after subparagraph (A) the fol-  
 15 lowing:

16 "(B) For purposes of subsections (d) and  
 17 (e) of section 922, the term 'act of violent juve-  
 18 nile delinquency' means an adjudication of de-  
 19 linquency in Federal or State court, based on a  
 20 finding of the commission of an act by a person  
 21 prior to his or her eighteenth birthday that, if  
 22 committed by an adult, would be a serious vio-  
 23 lent felony (as defined in section  
 24 3559(c)(2)(F)(i)) had Federal jurisdiction ex-  
 25 isted and been exercised (except that section

MAY 20 1999 (2:12 a.m.)

TOTAL P. 57

6

*2nd Degree for Kohl*

AMENDMENT NO. \_\_\_\_\_

Purpose: To require the availability of gun safety devices in connection with the transfer of a firearm.

**UNITED STATES SENATE --  
105th Cong., 2nd. Sess.**

**S. \_\_\_\_\_**

Making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies, for the Fiscal Year ending September 30, 1999, and for other purposes.

AMENDMENT intended to be proposed by Mr. \_\_\_\_\_, as amendment in the nature of the second degree to Amendment number \_\_\_\_\_, proposed by Mr. Kohl.

Viz:

Strike all that follows after "Sec.", and insert the following:

**"\_\_\_. FIREARMS SAFETY.**

(a) **SECURE GUN STORAGE OR SAFETY DEVICE.**--Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means--

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating or removing the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means."

*← Definition of "safety device" under the Craig Amendment.*

*[Handwritten signature]*

(b) **CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.**--Section 923(d)(1) of title 18, United States Code, is amended--

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees

*(7)*

AMENDMENT

(subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device)."

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.--The first sentence of section 923(a) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)."

(d) STATUTORY CONSTRUCTION: EVIDENCE.--

(1) STATUTORY CONSTRUCTION.--Nothing in the amendments made by this section shall be construed--

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability;

or

(B) as establishing any standard of care.

(2) EVIDENCE.--Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.--The amendments made by this section shall take effect 180 days after the date of enactment of this Act."



Bob:

Sat. p.m.

This sub (50093) is in your  
inbox. Create the minority pro-  
visions on pp. ~~an~~ 2 & 3 (~~see~~ green  
highlighter marks beginning & end). Also,  
decide what to do with the language  
on p. 5 (See Vaughn's note asking whether  
it can be incorporated). If you put  
it in, it should be part of §  
proposed s. 175.36, I suppose.

WANTED BY NOON  
ON MONDAY

JED



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBs0093/1

JEO:.....

D. Note

By Manday  
6/14 noon

↓  
A.P.N.

cmH

SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 6

gen cat

1 AN ACT ...; relating to: transfer of handguns, immunity from liability and  
2 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 access to the device.

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

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

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

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





1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0093/lins  
JEO & RPN:.....

1

insert 3-13:

*CS*  
*NO CAUSE OF ACTION CREATED.*

2

(4) This section does not create a cause of action against a firearm<sup>s</sup> dealer or

3

establish any special standard of care that applies only to a firearm<sup>s</sup> dealer.

4

SECTION 1. 895.59 of the statutes is created to read:

5

895.59 ~~11a.~~ (1) *BOLD NO CS* LIABILITY EXEMPTION: SECURE HANDGUNS. A person who has

6

lawful possession and control of a handgun, as defined in s. 175.36 (1) (b), and who

7

uses a secure storage or safety device, as defined in s. 175.36 (1) (e), for that handgun

8

is immune from civil liability for any damages resulting from the use of the handgun

9

if all of the following conditions apply:

10

(a) The handgun was obtained by another person without the authorization of

11

the person who had lawful possession and control of the handgun.

12

(b) The person who had lawful possession and control of the handgun had used

13

a secure storage or safety device, as defined in s. 175.36 (1) (e), for that handgun at

14

the time that the other person obtained unauthorized possession of the handgun.

15

(2) Subsection (1) does not provide immunity for a person who had lawful

16

possession and control of the handgun if that person is negligent in the use of the

17

handgun or in the entrustment of the handgun to another person.

18

19

insert 3-17:

20

(2) IMMUNITY FROM LIABILITY. The treatment of section 895.59 of the statutes

21

first applies to damages incurred on the effective date of this subsection.

(END OF INSERT)

*move  
title  
to  
precede  
sub  
number*

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0093/1dn

JEO:.....

*cmh*

Vaughn:

This draft has the same delayed effective date provision as SB-6. Okay? ✓

Also, this draft exempts antique firearms as well as those classified as curios or relics by ATF. (Compare the exemption for antiques that is in senate substitute amendment 1 to SB-6.) Okay?

Finally, I reorganized and (in a few places) reworded the federal language for better readability and for consistency with current statutory language.

Let me know if you have any questions or changes.

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: Jefren.Olsen@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0093/1dn  
JEO:cmh:km

June 14, 1999

Vaughn:

This draft has the same delayed effective date provision as SB-6. Okay?

Also, this draft exempts antique firearms as well as those classified as curios or relics by ATF. (Compare the exemption for antiques that is in senate substitute amendment 1 to SB-6.) Okay?

Finally, I reorganized and (in a few places) reworded the federal language for better readability and for consistency with current statutory language.

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Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: Jefren.Olsen@legis.state.wi.us



NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
11250 WAPLES MILL ROAD  
FAIRFAX, VA 22030-7400

FACSIMILE COVER SHEET

TO: Vaughn Vance 608-267-0309

FROM: UMAS

DATE: 6/14/99 TIME: \_\_\_\_\_

NUMBER OF PAGES FOLLOWING THIS PAGE: 3

INSTRUCTIONS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTENTION

The information contained in this facsimile may be confidential and may also be attorney-privileged. This information is intended only for the individual or entity to whom it is addressed. If you are not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, or distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone, and return the original message to us at the address above via the U.S. Postal Service. Thank you.

IF THERE IS A PROBLEM WITH THE RECEPTION OF THIS FACSIMILE, PLEASE  
CALL: (703) 267-\_\_\_\_\_



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBs0093/1  
JEO&RPN:cmh:km

SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 6

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 access to the device

5 *authorized access to the key, combination or other means intended for*  
6 *deactivation of the device*  
7 3. A safe, gun safe, gun case, lockbox or other device that is designed to be used  
8 or may be used to store a firearm and that is designed to be unlocked only by means  
9 of a key, a combination or similar means.

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

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

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



*required to purchase for employment*

- 1 1. The person taking possession of the handgun is another firearms dealer.
- 2 ~~2 The person taking possession of the handgun is a governmental unit.~~
- 3 ~~3 The person taking possession of the handgun is a law enforcement officer~~
- 4 ~~who will use the handgun while acting in his or her official capacity.~~ *(en or del. 10)*

5 4. The handgun is an antique, as defined in 18 USC 921 (a) (16), or is classified  
 6 as a curio or relic by regulations of the U.S. department of the treasury under 18 USC  
 7 921 (a) (13).

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

12 (3) PENALTY. Any person who violates this section may be fined not more than  
 13 \$500 or imprisoned for not more than 30 days or both.

14 (4) NO CAUSE OF ACTION CREATED. This section does not create a cause of action  
 15 against a firearms dealer or establish any special standard of care ~~(that applies only~~  
 16 ~~to a firearms dealer.)~~ *the strike per federal*

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

18 **895.59 Liability exemption; secure handguns.** (1) A person who has  
 19 lawful possession and control of a handgun, as defined in s. 175.36 (1) (c), and who  
 20 uses a secure storage or safety device, as defined in s. 175.36 (1) (e), for that handgun  
 21 is immune from civil liability for any damages resulting from the use of the handgun  
 22 if all of the following conditions apply:

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

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

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

7 **SECTION 3. Initial applicability.**

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

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

13 **SECTION 4. Effective date.**

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

16

(END)

*Exception if already own a safe, etc. for the handgun*

*Don't do this*



Tues 6/15 by 9:30 am

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

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redraft  
maker  
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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:

the key, combination or other means for deactivating

authorized

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 <sup>authorized</sup> access to the device.

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

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

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

22 ~~transferred~~ a secure storage or safety device becomes available

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



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

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

7 **SECTION 3. Initial applicability.**

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

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

13 **SECTION 4. Effective date.**

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

16 (END)