



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1235/03

CMH:bjk:rs

py
pe
Lstays

MONDAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA -
Inserts

begin cut

1 AN ACT *to create* 175.36 and 941.285 of the statutes; **relating to:** creating a
2 microstamping requirement for certain handguns, certification of compliance
3 with the microstamping requirement, requiring the exercise of rule-making
4 authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
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:

5 SECTION 1. 175.36 of the statutes is created to read:
6 **175.36 Semiautomatic handgun identification.** (1) In this section:
7 (a) "Department" means the department of justice.

1 (b) "Firearms dealer" has the meaning given in s. 175.35 (1) (ar).

2 (c) "Handgun" has the meaning given in s. 175.35 (1) (b) except that "handgun"
3 does not include a revolver.

4 (cm) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b)

***NOTE. Do you want to include a district attorney?

and includes a district attorney office

5 (d) "Manufacturer" means a person who possesses a federal license to
6 manufacture firearms or ammunition for sale or distribution.

7 (e) "Microstamping" means producing a code on at least 2 locations on each
8 expended cartridge case that identifies the make, model, and serial number of the
9 handgun

that expends the cartridge
IN S 2-10

10 (f) "Semiautomatic" means capable of using a portion of the energy of a firing
11 cartridge to extract the fired cartridge case and deliver another cartridge to the firing
12 chamber, if a separate pull of the trigger is required to fire each cartridge.

13 (g) "Transfer" has the meaning given in s. 939.22 (40).

14 (2) (a) Any manufacturer that ships or transports or after January 1, 2011,
15 a semiautomatic handgun to a firearms dealer in this state shall ensure that the
16 semiautomatic handgun is capable of microstamping.

17 (b) Any manufacturer that manufactures a semiautomatic handgun in this
18 state on or after January 1, 2011, shall ensure that the semiautomatic handgun is
19 capable of microstamping.

***NOTE: This provision is similar to the one under the model law; note that, even if the manufacturer were to ship the handgun out of state, this requirement would still apply. OK?

20 (c) Any firearms dealer that transfers a semiautomatic handgun in this state
21 on or after January 1, 2011, shall ensure that the semiautomatic handgun is capable
22 of microstamping.

IN S 2-22

***NOTE: This provision seems difficult to implement on January 1, 2011, since that is also the first day that all handguns manufactured in, or shipped to, Wisconsin need to be microstamp ready. Won't the firearms dealer have a supply of guns that he or she cannot transfer? And, if the manufacturers wait until they must comply, could there be a shortage of microstamp-ready handguns for a time?

1 **(2m)** A manufacturer that transfers, on or after January 1, 2011, a
 2 semiautomatic handgun *that was manufactured in* to a firearms dealer in this state shall certify, in the manner
 3 specified in the rules developed under sub. (5), all of the following conditions:
 4 (a) That the semiautomatic handgun is capable of microstamping.
 5 (b) That the manufacturer shall disclose to a law enforcement agency the make,
 6 model, and serial number of the semiautomatic handgun that expended a cartridge
 7 *if the cartridge was expended* during the commission of a crime *and* that crime is being investigated by the law
 8 enforcement agency.

***NOTE: Do you want a penalty for false certification? Depending on the rules that DOJ promulgates, the penalty for false swearing under s. 946.32 probably would not apply here.

9 **(3)** No person may transfer a semiautomatic handgun that the person knows
 10 or should know has been modified in violation of s. 941.285 (2).

11 **(4)** Any manufacturer that ships or transports a semiautomatic handgun to a
 12 firearms dealer in this state shall, only in accordance with the rules under sub. (5),
 13 disclose to a law enforcement agency the make, model, and serial number of the
 14 semiautomatic handgun that expended a cartridge during the commission of a crime
 15 if that crime is being investigated by the law enforcement agency.

16 **(5)** The department shall promulgate rules that do all of the following:
 17 (a) Identify the conditions necessary for a manufacturer to disclose to a law
 18 enforcement agency the make, model, and serial number of a semiautomatic
 19 handgun that expended a cartridge *and* during the commission of a crime *and* that crime
 20 is being investigated by the law enforcement agency.

if the cartridge was expended
an expended cartridge
when presented with a code from an expended cartridge

INS
3-9

INS
3-11

INS
3-3

1 (b) Specify the manner in which a manufacturer must certify under sub. (2m)
 2 the conditions under sub. (2m) (a) and (b). 3 Re

****NOTE: Section 227.11 specifies that the department may promulgate rules interpreting the provisions of any statute enforced or administered by it if the department considers it necessary to effectuate the purpose of the statute; therefore, I did not include permission to implement rules as the model law does because the permission would be redundant. I did, however, require the department to promulgate certain rules.

3 (6) Any person who violates sub. (2), (3), or (4) may be fined not more than
 4 \$1,000 and may be imprisoned for not more than 9 months. (NOT 5)

5 **SECTION 2.** 941.285 of the statutes is created to read:

6 **941.285 Modifying a semiautomatic handgun.** (1) In this section:

7 (a) "Handgun" has the meaning given in s. 175.36 (1) (c).

8 (b) "Microstamping" has the meaning given in s. 175.36 (1) (e).

9 (c) "Semiautomatic" has the meaning given in s. 175.36 (1) (f).

10 (2) Any person who modifies a semiautomatic handgun *for portion of a semiautomatic handgun* that is capable of
 11 microstamping with the intention of preventing law enforcement from accessing the
 12 microstamping code that identifies that semiautomatic handgun is guilty of a Class
 13 B misdemeanor.

****NOTE: The initial applicability provision specifies that only actions occurring on or after January 1, 2011, can violate this provision. However, actions occurring after that date violate this provision even if the handgun was not subject to the microstamping requirement but was capable of microstamping. Is that OK?

14 **SECTION 3. Initial applicability.**

15 (1) The treatment of section 941.285 of the statutes first applies to acts
 16 committed on the effective date of this subsection.

17 **SECTION 4. Effective date.**

18 (1) This act takes effect on January 1, 2011.

19 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1235/P411

cmh Lbjk

1 Insert 2-10

***NOTE: I kept "microstamping" because it works better as the part of speech in
> this draft also, the term "micro-stamp ready" is unusual term ^{an} seems to describe ^{change to em dash} the
what the cartridge could be instead of the production of the microstamp. But the
> definition is the important part, so please review that.

2

3 Insert 2-22

***NOTE: I did not replace page 2, line 14 with the suggested text. We need an actor,
especially for a penalty to attach. In Wisconsin, if we use the word "shall" we are directing
and must direct the correct entity. Are these ~~people~~ ^{persons} manufacturers and firearms
dealers ^{change to em dash} not sufficient? ^{change to em dash}

4

5 Insert 3-3

6 ^{NO} and subject to prosecution for false swearing under s. 946.32

7

8 Insert 3-5

***NOTE: The definition of "microstamping" would make some of the language
suggested redundant. I did, however, add "that expended the cartridge" to the definition
of "microstamping" based on your language here.

9

10 Insert 3-9

***NOTE: I did not add the adjective "legitimate" to describe a law enforcement
investigation. I'm not sure what ~~that~~ ^{an emdash} adds. I assume that someone may try to suppress
the microstamping information. I think a court would say that it was or was not a law
enforcement investigation and not suppress or suppress accordingly. I don't think the
addition of "legitimate" would make a difference. The term is not used in the current
> statutes so a court would have to interpret it, and I think it would be interpreted as law
enforcement investigation (and a malicious or bad faith investigation would not be a law
enforcement investigation). Also, I am uncomfortable implying in statute that a law
enforcement investigation could be illegitimate. Extraneous words ^{also} can have
consequences outside the statute. If "legitimate" is added to one statute, then all other
statutory references to investigations by a law enforcement agency, without the
"legitimate" description, would be legitimate or illegitimate.

11

(4) If a resident of this state who is not a firearms dealer acquired, while not

12

a resident of this state, through legal means outside of this state a semiautomatic

cmH Lbjk

1 handgun that was manufactured on or after January 1, 2011, he or she may transfer
2 the semiautomatic handgun only to a firearms dealer.

> ****NOTE: This language aims to accomplish what is in (1) of your most recent email to me. I am trying to determine what "who is not a firearms dealer" adds - would a firearms dealer be able to transfer the handgun to a nonfirearms dealer? ⁸⁸⁸ e em dash

3

4 Insert 3-11

****NOTE: I removed "or should know" per your instructions. As a consequence, I have changed an element of the crime. The DA now must prove beyond a reasonable doubt that the person knew (not just that the person should have known) that the gun had been modified in violation of s. 941.285 (2). I assume you intended the higher burden, right?

> ****NOTE: I think that the suggested text in (2) of your most recent email "If a firearms dealer lawfully acquires a ... handgun... the firearms dealer shall not transfer that handgun... if he or she knows that the handgun has been modified in violation of s. 941.285" is covered by this subsection.

****NOTE: I removed what was sub. (4); I think you're right, it was redundant.

7. This act shall take effect January 1, 2011 provided, that

(a) the Superintendent of the State Police has received a written notice from a microstamp job shop that it is willing to produce the microstamp structures on two internal surfaces of a semiautomatic pistol such that the pistol is microstamp-ready for a price of \$12 or less at a production level of 1000 firearms a batch.

(b) However, effective immediately, the Superintendent of the state police shall issue rules and regulations necessary for the implementation of this act on *January 1, 2011.*

[Italics are new language]

January 1, 2011, or within
the
is later

AS

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FRIDAY
if possible

stay
pmr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA-

Inserts

regen cat

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3 does not include a revolver.

4 (cm) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b) and
5 includes a district attorney's office.

6 (d) "Manufacturer" means a person who possesses a federal license to
7 manufacture firearms or ammunition for sale or distribution.

8 (e) "Microstamping" means producing a unique code on at least 2 locations on each
9 expended cartridge case that identifies the make, model, and serial number of the
10 handgun that expended the cartridge.

***NOTE: I kept "microstamping" because it works better as the part of speech in this draft. Also, the term "micro-stamp ready" is an unusual term — seems to describe what the cartridge could be instead of the production of the microstamp. But the definition is the important part, so please review that.



11 (f) "Semiautomatic" means capable of using a portion of the energy of a firing
12 cartridge to extract the fired cartridge case and deliver another cartridge to the firing
13 chamber, if a separate pull of the trigger is required to fire each cartridge.

14 (g) "Transfer" has the meaning given in s. 939.22 (40).

15 (2) (a) Any manufacturer that transfers on or after January 1, 2011, a
16 manufactured on or after January 1, 2011 semiautomatic handgun to a firearms dealer in this state shall ensure that the
17 semiautomatic handgun is capable of microstamping produces microstamps ← produces microstamps

18 (b) Any manufacturer that manufactures a semiautomatic handgun in this
19 state on or after January 1, 2011, shall ensure that the semiautomatic handgun is
20 capable of microstamping produces microstamps

***NOTE: This provision is similar to the one under the model law; note that, even if the manufacturer were to ship the handgun out of state, this requirement would still apply. OK?



3
Except as provided in subd. 20

manufactured on or after January 1, 2011

1 (c) Any firearms dealer that transfers a semiautomatic handgun in this state
2 on or after January 1, 2011, shall ensure that the semiautomatic handgun is capable
3 of microstamping. (produces microstamps)

MS 3-3

***NOTE: I did not replace page 2, line 14 with the suggested text. We need an actor, especially for a penalty to attach. In Wisconsin, if we use the word "shall" we are directing and must direct the correct entity. Are these persons — manufacturers and firearms dealers — not sufficient?

***NOTE: This provision seems difficult to implement on January 1, 2011, since that is also the first day that all handguns manufactured in, or shipped to, Wisconsin need to be microstamp ready. Won't the firearms dealer have a supply of guns that he or she cannot transfer? And, if the manufacturers wait until they must comply, could there be a shortage of microstamp-ready handguns for a time?

4 (3) A manufacturer that transfers a semiautomatic handgun that was
5 manufactured on or after January 1, 2011, to a firearms dealer in this state shall
6 certify, in the manner specified in the rules developed under sub. (6) and subject to
7 prosecution for false swearing under s. 946.32, all of the following conditions:

8 (a) That the semiautomatic handgun is capable of microstamping. (produces microstamps)

***NOTE: The definition of "microstamping" would make some of the language suggested redundant. I did, however, add "that expended the cartridge" to the definition of "microstamping" based on your language here.

9 (b) That the manufacturer shall disclose to a law enforcement agency, when
10 presented with a microstamp code from an expended cartridge, the make, model, and serial
11 number of the semiautomatic handgun that expended a cartridge if the cartridge was
12 expended during the commission of a crime and that crime is being investigated by
13 the law enforcement agency. (the law enforcement agency collected during a criminal investigation)

***NOTE: I did not add the adjective "legitimate" to describe a law enforcement investigation. I'm not sure what that adds. I assume that someone may try to suppress the microstamping information — I think a court would say that it was or was not a law enforcement investigation and not suppress or suppress accordingly. I don't think the addition of "legitimate" would make a difference. The term is not used in the current statutes so a court would have to interpret it, and I think it would be interpreted as law enforcement investigation (and a malicious or bad faith investigation would not be a law enforcement investigation). Also, I am uncomfortable implying in statute that a law enforcement investigation could be illegitimate. Extraneous words can have unintended consequences outside the statute. If "legitimate" is added to one statute, then all other statutory references to investigations by a law enforcement agency, without the "legitimate" description, could be legitimate or illegitimate.

MS 3-13

(a)

cmd that does not produce microstamps

1 (4) If a resident of this state who is not a firearms dealer acquired, while not
 2 a resident of this state through legal means outside of this state, a semiautomatic
 3 handgun that was manufactured on or after January 1, 2011, he or she may transfer
 4 the semiautomatic handgun only to a firearms dealer.

INS 4-5

****NOTE: This language aims to accomplish what is in (1) of your most recent email to me. I am trying to determine what "who is not a firearms dealer" adds — would a firearms dealer be able to transfer the handgun to a nonfirearms dealer?

5 (5) No person may transfer a semiautomatic handgun that the person knows
 6 has been modified in violation of s. 941.285 (2).

****NOTE: I removed "or should know" per your instructions. As a consequence, I have changed an element of the crime. The DA now must prove beyond a reasonable doubt that the person knew (not just that the person should have known) that the gun had been modified in violation of s. 941.285 (2). I assume you intended the higher burden, right?

****NOTE: I think that the suggested text in (2) of your most recent email "If a firearms dealer lawfully acquires a ... handgun ... the firearms dealer shall not ... transfer that [handgun] ... if the or she knows that the [handgun] has been modified in violation of s. 941.285" is covered by this subsection.

****NOTE: I removed what was sub. (4); I think you're right, it was redundant.

7 (6) The department shall promulgate rules that do all of the following:

8 (a) Identify the conditions necessary for a manufacturer to disclose to a law
 9 enforcement agency, when presented with a ^{microstamp the law enforcement agency collected} code from an expended cartridge, the
 10 make, model, and serial number of a semiautomatic handgun that expended a
 11 cartridge ~~if the cartridge was expended during the commission of a crime and that~~
 12 ~~crime is being investigated by the law enforcement agency.~~

the
 the
 during a criminal investigation

13 (b) Specify the manner in which a manufacturer must certify under sub. (3) the
 14 conditions under sub. (3) (a) and (b).

****NOTE: Section 227.11 specifies that the department may promulgate rules interpreting the provisions of any statute enforced or administered by it if the department considers it necessary to effectuate the purpose of the statute; therefore, I did not include permission to implement rules as the model law does because the permission would be redundant. I did, however, require the department to promulgate certain rules.

1 (7) Any person who violates sub. (2), (4), or (5) may be fined not more than
2 \$1,000 and may be imprisoned for not more than 9 months.

3 SECTION 2. 941.285 of the statutes is created to read:

4 **941.285 Modifying a semiautomatic handgun.** (1) In this section:

5 (a) "Handgun" has the meaning given ⁱⁿ s. 175.36 (1) (c).

6 (b) "Microstamping" ^{is} has the meaning given in s. 175.36 (1) (e).

7 (c) "Semiautomatic" has the meaning given in s. 175.36 (1) (f).

8 (2) Any person who ~~modifies~~ ^{produces microstamps} a semiautomatic handgun, or portion of a
9 semiautomatic handgun, that ~~is capable of microstamping~~ ^{produces microstamps} with the intention of
10 preventing law enforcement from accessing the ~~microstamping code~~ ^{microstamp} that identifies
11 that semiautomatic handgun is guilty of a Class B misdemeanor.

***NOTE: The initial applicability provision specifies that only actions occurring on or after January 1, 2011, can violate this provision. However, actions occurring after that date violate this provision even if the handgun was not subject to the microstamping requirement but was capable of microstamping. Is that OK?

12 SECTION 3. Initial applicability.

13 (1) The treatment of section 941.285 of the statutes first applies to acts
14 committed on the effective date of this subsection.

15 SECTION 4 ^{create A.R. 1} Effective date.

16 (1) This act takes effect on January 1, 2011.

17 (END)

↑
A.R. 2

D-note

INS
5-12

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1235/p5ins
CMH:.....

1 Insert 3-3

2 *A* 2. A firearms dealer that, on or after January 1, 2011, transfers in this state
3 a semiautomatic handgun manufactured on or after January 1, 2011, shall make a
4 good ^{ea} faith effort to ensure that the semiautomatic handgun produces microstamps
5 if the semiautomatic handgun has been transferred to a person who is not a firearms
6 dealer.

7
8 Insert 3-13

9 ~~collected the expended cartridge during a criminal investigation.~~
10 *A* (b) ~~A~~ manufacturer ^{Paragraph (a) does not apply to} ~~who~~ _{that} is a firearms dealer that transfers a semiautomatic
11 handgun to another firearms dealer in this state ~~does not have to certify that the~~
12 ~~semiautomatic handgun produces microstamps~~ if the semiautomatic handgun has
13 ever been transferred to a person who is not a firearms dealer.

14
15 Insert 4-5

16 *A* (b) A firearms dealer that is transferred a semiautomatic handgun under par.
17 (a) may not transfer the semiautomatic handgun in this state.

18
19 Insert 5-12

20 SECTION ~~1~~. Nonstatutory provisions.

21 (1) CONTINGENCY.

22 (a) In this subsection:

1 1 . "Handgun" has the meaning given in section 175.36 (1) (c) of the statutes,
2 as created by this act.

3 2 . "Microstamp" has the meaning given in section 175.36 (1) (e) of the statutes,
4 as created by this act.

5 3 . "Semiautomatic" has the meaning given in section 175.36 (1) (f) of the
6 statutes, as created by this act.

7 (b) Notwithstanding SECTION () () of this act, the treatment of sections 175.36
8 and 941.285 of the statutes may not take effect unless, by January 1, 2011, the
9 attorney general has received a written notice from a person that the person is able
10 to convert a semiautomatic handgun into a semiautomatic handgun that produces
11 microstamps for no more than \$12 per semiautomatic handgun if produced at a level
12 of 1,000 semiautomatic handguns a batch.

by this act

AM1
AM2

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1235/p5dn
CMH:.....

Lbjk

Date

Greg:

Please note that this bill, if enacted, could be challenged as an impermissible delegation of legislative power because it allows a private entity to determine, rather than the legislature, if the created provisions will become effective. This issue is theoretical unless a private entity does not provide a written notice, thus keeping the enacted bill from becoming effective.

I believe that this version addresses all of the issues Josh and I discussed on Tuesday, February 24.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

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

LRB-1235/P5dn
CMH:bjk:jf

February 26, 2009

Greg:

Please note that this bill, if enacted, could be challenged as an impermissible delegation of legislative power because it allows a private entity to determine, rather than the legislature, if the created provisions will become effective. This issue is theoretical unless a private entity does not provide a written notice, thus keeping the enacted bill from becoming effective.

I believe that this version addresses all of the issues Josh and I discussed on Tuesday, February 24.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

Page 2, Line 15: (2) (a) Any manufacturer or dealer that transfers a semiautomatic handgun manufactured on or after January 1, 2011, to a firearms dealer in this state shall ensure that the semiautomatic handgun produces microstamps.

Page 2, Line 21: (c) 1. Except as provided in subd. 2., any firearms dealer ~~may not transfer in this state a semiautomatic handgun manufactured on or after January 1, 2011, unless the manufacturer or dealer has ensured that the semiautomatic handgun will produce microstamps.~~

Page 2, Line 24: 2. A firearms dealer ~~may transfer in this state a semiautomatic handgun manufactured on or after January 1, 2011, if the semiautomatic handgun has been received from a person who is not a firearms dealer unless the dealer knows that the microstamps have been modified in violation of s. 941.285.~~

Page 3, Line 3: (3) (a) A manufacturer ~~or dealer~~ that transfers a semiautomatic handgun that was manufactured on or after January 1, 2011, to a firearms dealer in this state shall certify, in the manner specified in the rules developed under sub. (6) and subject to prosecution for false swearing under s. 946.32, all of the following conditions:

Page 3, Line 13: JH note: I am not sure that I understand the purpose of sub (b)?

Page 3, Line 19: (4) (a) If a resident of this state acquired, while not a resident of this state through legal means outside of this state, a semiautomatic handgun that was manufactured on or after January 1, 2011, and that handgun does not produce microstamps he or she may transfer the semiautomatic handgun only to a firearms dealer.

Page 5, Line 3:

- Deleted:** that
- Deleted:** s
- Formatted:** Space After: 0 pt, Line spacing: single, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers
- Deleted:** ¶
- Deleted:** shall ensure that the semiautomatic handgun produces microstamps.
- Deleted:** that
- Deleted:** s
- Deleted:** shall make a good faith effort to ensure that the semiautomatic handgun produces microstamps
- Deleted:** transferred to

- Formatted:** Space After: 0 pt, Line spacing: single, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers
- Deleted:** (b) Notwithstanding SECTION 5 (1) of this act, the treatment of sections 175.36 and 941.285 of the statutes by this act may not take effect unless, by January 1, 2011, the attorney general has received a written notice from a person that the person is able to convert a semiautomatic handgun into a semiautomatic handgun that produces microstamps for no more than \$12 per semiautomatic handgun if produced at a level of 1,000 semiautomatic handguns a batch.



State of Wisconsin
2009 - 2010 LEGISLATURE

96
LRB-1235/P5
CMH:bjk:jf
Lstays

Tues A.M.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA- Insert

repeal

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5 includes a district attorney's office.

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7 manufacture firearms or ammunition for sale or distribution.

8 (e) "Microstamp" means a unique code on at least 2 locations on each expended
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10 that expended the cartridge.

11 (f) "Semiautomatic" means capable of using a portion of the energy of a firing
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13 chamber, if a separate pull of the trigger is required to fire each cartridge.

14 (g) "Transfer" has the meaning given in s. 939.22 (40).

15 ~~(2) (a) Any manufacturer ^{or firearms dealer} that transfers a semiautomatic handgun
16 manufactured on or after January 1, 2011, to a firearms dealer in this state shall
17 ensure that the semiautomatic handgun produces microstamps.~~

18 ~~(b) Any manufacturer that manufactures a semiautomatic handgun in this
19 state on or after January 1, 2011, shall ensure that the semiautomatic handgun
20 produces microstamps.~~

21 (c) 1. Except as provided in subd. 2., ^{any} ~~any~~ firearms dealer ^{that} ~~that~~ transfers ⁱⁿ ~~in~~ this
22 state a semiautomatic handgun manufactured on or after January 1, 2011, ^{unless} ~~shall~~
23 ensure ^d that the semiautomatic handgun produces microstamps.

24 2. A firearms dealer ^{that} ~~that~~ transfers ⁱⁿ ~~in~~ this state a semiautomatic handgun
25 manufactured on or after January 1, 2011, ~~shall make a good faith effort to ensure~~

Except as provided in sub. (5),

1 Insert 3-3

2 (2) (a) No manufacturer or firearms dealer may transfer a semiautomatic
3 handgun manufactured on or after January 1, 2011, to a firearms dealer in this state
4 unless the semiautomatic handgun produces microstamps.

5 (b) No manufacturer may manufacture a semiautomatic handgun in this state
6 on or after January 1, 2011, unless the semiautomatic handgun produces
7 microstamps.

8 (c) 1. If a manufacturer or a firearms dealer transfers to a firearms dealer a
9 semiautomatic handgun that was manufactured on or after January 1, 2011, the
10 ~~receiving~~ ^{gun} firearms dealer ^{that received the semiautomatic handgun} may not transfer the semiautomatic handgun unless the
11 manufacturer or the ~~transferring~~ ^{that transferred the semiautomatic handgun} firearms dealer has certified under sub. (3) (a) that
12 the semiautomatic handgun produces microstamps.

13 2. If a person ^{if that} ~~who~~ is not a manufacturer or a firearms dealer transfers to a
14 firearms dealer ~~a~~ a semiautomatic handgun that was manufactured on or after
15 January 1, 2011, the firearms dealer may, unless the firearms dealer knows that the
16 transfer would violate sub. (5), transfer in this state the semiautomatic handgun.

*without certifying
under sub. (3) (a)
that the semiautomatic
handgun produces
microstamps*

person who transfers the

1 that the semiautomatic handgun produces microstamps if the semiautomatic
2 handgun has been transferred to a person who is not a firearms dealer.

3 (3) (a) A manufacturer *that transfers a semiautomatic handgun that was*
4 *manufactured on or after January 1, 2011, to a firearms dealer in this state shall*
5 *certify, in the manner specified in the rules developed under sub. (6) and subject to*
6 *prosecution for false swearing under s. 946.32, all of the following conditions:*

7 1. Except as provided in par. (b), that the semiautomatic handgun produces
8 microstamps.

9 2. That the manufacturer shall disclose to a law enforcement agency, when
10 presented with a microstamp code from an expended cartridge the law enforcement
11 agency collected during a criminal investigation, the make, model, and serial
12 number of the semiautomatic handgun that expended the cartridge.

13 (b) Paragraph (a) 1. does not apply to a manufacturer that is a firearms dealer
14 that transfers a semiautomatic handgun to another firearms dealer in this state if
15 the semiautomatic handgun *has ever been* transferred to a person *who* is not a
16 firearms dealer. *was previously that*

17 (4) (a) If a resident of this state acquired, while not a resident of this state
18 through legal means outside of this state, a semiautomatic handgun that was
19 manufactured on or after January 1, 2011, and that does not produce microstamps,
20 he or she may transfer the semiautomatic handgun only to a firearms dealer.

21 (b) A firearms dealer that is transferred a semiautomatic handgun under par.
22 (a) may not transfer the semiautomatic handgun in this state.

23 (5) No person may transfer a semiautomatic handgun that the person knows
24 has been modified in violation of s. 941.285 (2).

25 (6) The department shall promulgate rules that do all of the following:

M/S
3-3

1 (a) Identify the conditions necessary for a manufacturer to disclose to a law
2 enforcement agency, when presented with a microstamp code from an expended
3 cartridge the law enforcement agency collected during a criminal investigation, the
4 make, model, and serial number of a semiautomatic handgun that expended the
5 cartridge.

6 (b) Specify the manner in which a manufacturer must certify under sub. (3) the
7 conditions under sub. (3) (a) ~~and (b)~~ 1 and 2

8 (7) Any person who violates sub. (2), (4), or (5) may be fined not more than
9 \$1,000 and may be imprisoned for not more than 9 months.

10 SECTION 2. 941.285 of the statutes is created to read:

11 **941.285 Modifying a semiautomatic handgun.** (1) In this section:

12 (a) "Handgun" has the meaning given in s. 175.36 (1) (c).

13 (b) "Microstamp" has the meaning given in s. 175.36 (1) (e).

14 (c) "Semiautomatic" has the meaning given in s. 175.36 (1) (f).

15 (2) Any person who modifies a semiautomatic handgun, or portion of a
16 semiautomatic handgun, that produces microstamps with the intention of
17 preventing law enforcement from accessing the microstamp that identifies that
18 semiautomatic handgun is guilty of a Class B misdemeanor.

19 **SECTION 3. Nonstatutory provisions.**

20 (1) CONTINGENCY.

21 (a) In this subsection:

22 1. "Handgun" has the meaning given in section 175.36 (1) (c) of the statutes,
23 as created by this act.

24 2. "Microstamp" has the meaning given in section 175.36 (1) (e) of the statutes,
25 as created by this act.

1 3. "Semiautomatic" has the meaning given in section 175.36 (1) (f) of the
2 statutes, as created by this act.

3 (b) Notwithstanding SECTION 5 (1) of this act, the treatment of sections 175.36
4 and 941.285 of the statutes by this act may not take effect unless, by January 1, 2011,
5 the attorney general has received a written notice from a person that the person is
6 able to convert a semiautomatic handgun into a semiautomatic handgun that
7 produces microstamps for no more than \$12 per semiautomatic handgun if produced
8 at a level of 1,000 semiautomatic handguns a batch.

9 **SECTION 4. Initial applicability.**

10 (1) The treatment of section 941.285 of the statutes first applies to acts
11 committed on the effective date of this subsection.

12 **SECTION 5. Effective date.**

13 (1) This act takes effect on January 1, 2011.

14 (END)

Duerst, Christina

From: Duerst, Christina
Sent: Tuesday, March 10, 2009 11:49 AM
To: 'jhorwitz@csgv.org'
Subject: LRB 09-1235/P6

Attachments: 09-1235/P6



09-1235P62daa000
6.pdf (28 KB)

Hanaman, Cathlene

From: Josh Horwitz [jhorwitz@csgv.org]
Sent: Wednesday, March 11, 2009 1:46 PM
To: Hanaman, Cathlene
Subject: RE: The latest

-1235

Ok, we make these few changes and we are done:

Page 3, Line 5: 2. If a person that is not a manufacturer or a firearms dealer transfers to a firearms dealer a semiautomatic handgun that was manufactured on or after January 1, 2011 and designed to produce microstamps, the firearms dealer may, unless the firearms dealer knows that the transfer would violate sub. (5), transfer the semiautomatic handgun in this state without certifying under sub. (3) (a) that the semiautomatic handgun produces microstamps.

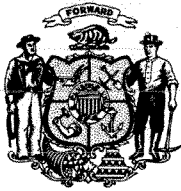
Page 4, Line 4: (b) A firearms dealer that is transferred a semiautomatic handgun under par. (a) may not transfer the semiautomatic handgun to any individual in this state.

Many, many thanks,

Josh

-----Original Message-----

From: Hanaman, Cathlene [mailto:Cathlene.Hanaman@legis.wisconsin.gov]
Sent: Tuesday, March 10, 2009 2:37 PM
To: Josh Horwitz
Subject: The latest



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1235/P6

CMH:bjk:md

P7

Lstays

Thurs.
please

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA-

LPS -
I have emailed
CMH to forward
tws draft to
typing. bjk

repen cut

1 **AN ACT to create** 175.36 and 941.285 of the statutes; **relating to:** creating a
2 microstamping requirement for certain handguns, certification of compliance
3 with the microstamping requirement, requiring the exercise of rule-making
4 authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
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:***

5 **SECTION 1.** 175.36 of the statutes is created to read:
6 **175.36 Semiautomatic handgun identification.** (1) In this section:
7 (a) "Department" means the department of justice.

1 (b) "Firearms dealer" has the meaning given in s. 175.35 (1) (ar).

2 (c) "Handgun" has the meaning given in s. 175.35 (1) (b) except that "handgun"
3 does not include a revolver.

4 (cm) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b) and
5 includes a district attorney's office.

6 (d) "Manufacturer" means a person who possesses a federal license to
7 manufacture firearms or ammunition for sale or distribution.

8 (e) "Microstamp" means a unique code on at least 2 locations on each expended
9 cartridge case that identifies the make, model, and serial number of the handgun
10 that expended the cartridge.

11 (f) "Semiautomatic" means capable of using a portion of the energy of a firing
12 cartridge to extract the fired cartridge case and deliver another cartridge to the firing
13 chamber, if a separate pull of the trigger is required to fire each cartridge.

14 (g) "Transfer" has the meaning given in s. 939.22 (40).

15 (2) (a) No manufacturer or firearms dealer may transfer a semiautomatic
16 handgun manufactured on or after January 1, 2011, to a firearms dealer in this state
17 unless the semiautomatic handgun produces microstamps.

18 (b) No manufacturer may manufacture a semiautomatic handgun in this state
19 on or after January 1, 2011, unless the semiautomatic handgun produces
20 microstamps.

21 (c) 1. If a manufacturer or a firearms dealer transfers to a firearms dealer a
22 semiautomatic handgun that was manufactured on or after January 1, 2011, the
23 firearms dealer that received the semiautomatic handgun may not transfer the
24 semiautomatic handgun in this state unless the manufacturer or the firearms dealer

1 that transferred the semiautomatic handgun has certified under sub. (3) (a) that the
2 semiautomatic handgun produces microstamps.

3 2. If a person that is not a manufacturer or a firearms dealer transfers to a
4 firearms dealer a semiautomatic handgun that was manufactured on or after
5 January 1, 2011, the firearms dealer may, unless the firearms dealer knows that the
6 transfer would violate sub. (5), transfer the semiautomatic handgun in this state
7 without certifying under sub. (3) (a) that the semiautomatic handgun produces
8 microstamps.

9 (3) (a) A manufacturer or a firearms dealer that transfers a semiautomatic
10 handgun that was manufactured on or after January 1, 2011, to a firearms dealer in
11 this state shall certify, in the manner specified in the rules developed under sub. (6)
12 and subject to prosecution for false swearing under s. 946.32, all of the following
13 conditions:

14 1. Except as provided in par. (b), that the semiautomatic handgun produces
15 microstamps.

16 2. That the manufacturer shall disclose to a law enforcement agency, when
17 presented with a microstamp code from an expended cartridge the law enforcement
18 agency collected during a criminal investigation, the make, model, and serial
19 number of the semiautomatic handgun that expended the cartridge.

20 (b) Paragraph (a) 1. does not apply to a firearms dealer that transfers a
21 semiautomatic handgun to another firearms dealer in this state if the semiautomatic
22 handgun was previously transferred to a person that is not a firearms dealer.

23 (4) (a) If a resident of this state acquired, while not a resident of this state
24 through legal means outside of this state, a semiautomatic handgun that was

*3 was assigned to
and that produces
microstamps*

1 manufactured on or after January 1, 2011, and that does not produce microstamps,
2 he or she may transfer the semiautomatic handgun only to a firearms dealer.

3 (b) A firearms dealer that is transferred a semiautomatic handgun under par.

4 (a) may not transfer the semiautomatic handgun in this state.

to any person

5 (5) No person may transfer a semiautomatic handgun that the person knows
6 has been modified in violation of s. 941.285 (2).

7 (6) The department shall promulgate rules that do all of the following:

8 (a) Identify the conditions necessary for a manufacturer to disclose to a law
9 enforcement agency, when presented with a microstamp code from an expended
10 cartridge the law enforcement agency collected during a criminal investigation, the
11 make, model, and serial number of a semiautomatic handgun that expended the
12 cartridge.

13 (b) Specify the manner in which a manufacturer must certify under sub. (3) the
14 conditions under sub. (3) (a) 1. and 2.

15 (7) Any person who violates sub. (2), (4), or (5) may be fined not more than
16 \$1,000 and may be imprisoned for not more than 9 months.

17 **SECTION 2.** 941.285 of the statutes is created to read:

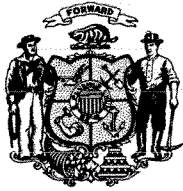
18 **941.285 Modifying a semiautomatic handgun.** (1) In this section:

19 (a) "Handgun" has the meaning given in s. 175.36 (1) (c).

20 (b) "Microstamp" has the meaning given in s. 175.36 (1) (e).

21 (c) "Semiautomatic" has the meaning given in s. 175.36 (1) (f).

22 (2) Any person who modifies a semiautomatic handgun, or portion of a
23 semiautomatic handgun, that produces microstamps with the intention of
24 preventing law enforcement from accessing the microstamp that identifies that
25 semiautomatic handgun is guilty of a Class B misdemeanor.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1235/07

CMH:bjk:ph

stays

remr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA-

Insert

reyn
cat

1 AN ACT *to create* 175.36 and 941.285 of the statutes; **relating to:** creating a
2 microstamping requirement for certain handguns, certification of compliance
3 with the microstamping requirement, requiring the exercise of rule-making
4 authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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.

INS
ANALYSIS

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

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

6 **175.36 Semiautomatic handgun identification.** (1) In this section:

7 (a) "Department" means the department of justice.

1 (b) "Firearms dealer" has the meaning given in s. 175.35 (1) (ar).

2 (c) "Handgun" has the meaning given in s. 175.35 (1) (b) except that "handgun"
3 does not include a revolver.

4 (cm) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b) and
5 includes a district attorney's office.

6 (d) "Manufacturer" means a person who possesses a federal license to
7 manufacture firearms or ammunition for sale or distribution.

8 (e) "Microstamp" means a unique code on at least 2 locations on each expended
9 cartridge case that identifies the make, model, and serial number of the handgun
10 that expended the cartridge.

11 (f) "Semiautomatic" means capable of using a portion of the energy of a firing
12 cartridge to extract the fired cartridge case and deliver another cartridge to the firing
13 chamber, if a separate pull of the trigger is required to fire each cartridge.

14 (g) "Transfer" has the meaning given in s. 939.22 (40).

15 (2) (a) No manufacturer or firearms dealer may transfer a semiautomatic
16 handgun manufactured on or after January 1, 2011, to a firearms dealer in this state
17 unless the semiautomatic handgun produces microstamps.

18 (b) No manufacturer may manufacture a semiautomatic handgun in this state
19 on or after January 1, 2011, unless the semiautomatic handgun produces
20 microstamps.

21 (c) 1. If a manufacturer or a firearms dealer transfers to a firearms dealer a
22 semiautomatic handgun that was manufactured on or after January 1, 2011, the
23 firearms dealer that received the semiautomatic handgun may not transfer the
24 semiautomatic handgun in this state unless the manufacturer or the firearms dealer

1 that transferred the semiautomatic handgun has certified under sub. (3) (a) that the
2 semiautomatic handgun produces microstamps.

3 2. If a person that is not a manufacturer or a firearms dealer transfers to a
4 firearms dealer a semiautomatic handgun that was manufactured on or after
5 January 1, 2011, and that was designed to produce microstamps, the firearms dealer
6 may, unless the firearms dealer knows that the transfer would violate sub. (5),
7 transfer the semiautomatic handgun in this state without certifying under sub. (3)
8 (a) that the semiautomatic handgun produces microstamps.

9 (3) (a) A manufacturer or a firearms dealer that transfers a semiautomatic
10 handgun that was manufactured on or after January 1, 2011, to a firearms dealer in
11 this state shall certify, in the manner specified in the rules developed under sub. (6)
12 and subject to prosecution for false swearing under s. 946.32, all of the following
13 conditions:

14 1. Except as provided in par. (b), that the semiautomatic handgun produces
15 microstamps.

16 2. That the manufacturer shall disclose to a law enforcement agency, when
17 presented with a microstamp code from an expended cartridge the law enforcement
18 agency collected during a criminal investigation, the make, model, and serial
19 number of the semiautomatic handgun that expended the cartridge.

20 (b) Paragraph (a) 1. does not apply to a firearms dealer that transfers a
21 semiautomatic handgun to another firearms dealer in this state if the semiautomatic
22 handgun was previously transferred to a person that is not a firearms dealer.

23 (4) (a) If a resident of this state acquired, while not a resident of this state
24 through legal means outside of this state, a semiautomatic handgun that was

1 manufactured on or after January 1, 2011, and that does not produce microstamps,
2 he or she may transfer the semiautomatic handgun only to a firearms dealer.

3 (b) A firearms dealer that is transferred a semiautomatic handgun under par.
4 (a) may not transfer the semiautomatic handgun to any person in this state.

5 (5) No person may transfer a semiautomatic handgun that the person knows
6 has been modified in violation of s. 941.285 (2).

7 (6) The department shall promulgate rules that do all of the following:

8 (a) Identify the conditions necessary for a manufacturer to disclose to a law
9 enforcement agency, when presented with a microstamp code from an expended
10 cartridge the law enforcement agency collected during a criminal investigation, the
11 make, model, and serial number of a semiautomatic handgun that expended the
12 cartridge.

13 (b) Specify the manner in which a manufacturer must certify under sub. (3) the
14 conditions under sub. (3) (a) 1. and 2.

15 (7) Any person who violates sub. (2), (4), or (5) may be fined not more than
16 \$1,000 ~~and~~ may be imprisoned for not more than 9 months ~~or both~~

17 **SECTION 2.** 941.285 of the statutes is created to read:

18 **941.285 Modifying a semiautomatic handgun.** (1) In this section:

19 (a) "Handgun" has the meaning given in s. 175.36 (1) (c).

20 (b) "Microstamp" has the meaning given in s. 175.36 (1) (e).

21 (c) "Semiautomatic" has the meaning given in s. 175.36 (1) (f).

22 (2) Any person who modifies a semiautomatic handgun, or portion of a
23 semiautomatic handgun, that produces microstamps with the intention of
24 preventing law enforcement from ~~accessing~~ ^{being able to} the microstamp that identifies that
25 semiautomatic handgun is guilty of a Class B misdemeanor.

1 Insert analysis

This bill prohibits a gun manufacturer or a firearms dealer from transferring a semiautomatic handgun that does not produce an identifying code (microstamp) on each cartridge case it expends if both of the following apply: 1) the handgun was manufactured on or after January 1, 2011; and 2) the handgun has not previously been transferred to a person that is not a manufacturer or dealer (new handgun). This bill also prohibits a manufacturer in this state from manufacturing, on or after January 1, 2011, a semiautomatic handgun that does not produce a microstamp. A person that violates one of these prohibitions is subject to a fine of up to \$1,000 or imprisonment for up to nine months, or both.

> The bill also requires manufacturers and dealers who transfer a handgun that is required to produce microstamps to certify that the handgun, if a new handgun, produces microstamps and that the manufacturer of the handgun will disclose to a law enforcement agency that has collected a microstamp from an expended cartridge during a criminal investigation the make, model, and serial number of the handgun that expended the cartridge.

This bill prohibits a person from modifying a semiautomatic handgun that produces microstamps if the person intends to prevent law enforcement from being able to access the microstamp on an expended cartridge. A person who violates this prohibition is guilty of a misdemeanor and is subject to a fine ~~not to exceed~~ \$1,000 or imprisonment ~~not to exceed~~ 90 days, or both. A person who transfers a semiautomatic handgun that he or she knows has been modified in violation of this prohibition is subject to a fine of up to \$1,000 or imprisonment for not more than nine months, or both.

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more
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then

of up to

it is

Basford, Sarah

From: Stewart, Greg
Sent: Tuesday, April 14, 2009 2:46 PM
To: LRB.Legal
Subject: Jacket request

Please jacket LRB 1235/1 for Rep. Leon Young's office.

Thanks,

Greg W. Stewart
Office of Rep. Leon D. Young
Chair - Assembly Housing Committee
608.266.3786 (office)
888.534.0016 (Toll-free)
608.282.3616 (fax)