

2009 DRAFTING REQUEST

Bill

Received: **07/21/2009**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Richards (608) 266-0650**

By/Representing: **Hope Winship**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - guns and weapons**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Richards@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Requiring a report if firearm lost or stolen

Instructions:

See attached

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>
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/P1	chanaman 09/21/2009	bkraft 09/21/2009	jfrantze 09/04/2009	_____	sbasford 09/04/2009		S&L Crime
/P2	chanaman 09/30/2009	kfollett 09/30/2009	phenry 09/22/2009	_____	lparisi 09/22/2009		S&L Crime
/P3	chanaman	bkraft	rschluet	_____	lparisi		S&L

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Assembly

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Hope / Richards
Office

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Department of Administration
Intergovernmental Relations Division

Tom Barrett
Mayor

Sharon Robinson
Director of Administration

Paul Vornholt
Director of Intergovernmental Relations

Proposal to Require Reporting of Lost & Stolen Firearms

Almost all firearms that are manufactured in the United States start with a legal sale. It is not until a firearm is used illegally is that it is considered to be an illegal firearm. Firearms move into the illegal market through two means, trafficking and straw purchases. According to the ATF, a straw purchase occurs when the actual buyer of a firearm uses another person (a straw purchaser) to execute the paperwork necessary to purchase a firearm from a firearms dealer with a Federal Firearms License.

According to a study by Mayors Against Illegal Guns, straw purchasers are generally paid in drugs or in money, that many are not knowledgeable about guns and are still sold handguns, and that many purchases occur with ineligible purchaser in the store with the straw purchaser.

If a firearm is located at a crime scene and it is traced back to the original purchaser, that individual could claim that the gun was either lost or stolen. This would allow an individual to conceal their involvement in gun trafficking or straw purchases.¹

According to *Crime in Wisconsin 2007* by the Wisconsin Office of Justice Assistance the following crimes involved a firearm:

- 63% of all murders – 70% of which were with a handgun
- 69% of all forcible rapes – 84% of which were with a handgun
- 51% of all robberies
- 32% of all violent crimes
- 24% of all aggravated assaults

Requiring individuals to report firearms as lost or stolen will create a disincentive for straw purchasers to obtain firearms for felons because they would not want a gun tracked back to them if it was used in the commission of a crime. This in turn can help reduce the supply of guns to criminals, and reduce the number of crimes committed in Wisconsin involving a firearm.

Proposals:

- Create a new statute that would require an individual to report a firearm as lost or stolen immediately upon discovery. If it is not reported and a firearm is tracked back to the owner, the violator must pay a penalty.
- In order for straw purchasers and traffickers to not take advantage of the new statute and not falsely report a lost or stolen firearm, there should be an amendment to Wis. Stat. 946.41 that would provide a penalty for falsely filing a police report for any individual who falsely reports a lost or stolen firearm.

For more information, please contact:

Steve Kwaterski, Senior Legislative Research Analyst
(414) 286-3336 or steve.kwaterski@milwaukee.gov

¹ "Reporting Lost or Stolen Firearms" – *Legal Community Against Violence – Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws*

Reporting Lost or Stolen Firearms

Background

Laws that require firearm owners to report lost or stolen firearms serve several public safety functions. These laws help deter gun trafficking and discourage straw purchasing, as well as assist lawful gun owners by facilitating the recovery of their lost or stolen property.

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Laws requiring the reporting of lost or stolen guns deter gun trafficking (the diversion of firearms from the legal to illegal market) by providing to law enforcement indicators of trafficking and straw purchasing.¹ When a gun is found at a crime scene and traced by law enforcement back to the original purchaser, that gun owner may falsely claim that the gun was lost or stolen to hide their involvement in trafficking or straw purchasing. Reporting laws put law enforcement on notice of such suspicious patterns of behavior by persons who repeatedly fail to file reports yet claim that their guns were lost or stolen after they are recovered from a crime scene. In addition, reporting laws put law enforcement on notice of persons who repeatedly report their guns lost or stolen, another indicator that the person may be trafficking firearms or engaging in straw purchasing.

Reporting laws make gun owners more accountable for their weapons, and protect gun owners by preventing unwarranted criminal accusations against owners who suffer thefts or losses. The requirement also protects law-abiding gun owners by making it easier for law enforcement to locate a lost or stolen firearm and return it to its owner. Timely reporting of gun thefts or losses enables police to trace guns more effectively, and makes the successful prosecution of users of stolen guns more likely.

Stolen guns also supply the market for crime guns. A 2002 Americans for Gun Safety (AGS)² study found that between January 1993 and August 2002 nearly 1.7 million firearms were reported stolen.³ Of those stolen guns, over one million remained missing.⁴ The actual number of gun thefts likely is much larger than reported. Survey research indicates that at least 500,000 firearms are stolen annually from residences.⁵ The number of guns stolen likely is much higher than the number reported stolen.⁶

Many stolen guns are used to commit other crimes. A U.S. Department of the Treasury study revealed that nearly a quarter of ATF gun trafficking investigations involved stolen firearms and were associated with over 11,000 trafficked firearms – including 10%

¹ A "straw purchaser" is a person who buys firearms on behalf of a convicted felon, juvenile or other prohibited purchaser.

² Americans for Gun Safety is no longer an independent organization, but is now an initiative within Third Way, which describes itself as a "non-profit, non-partisan strategy center for progressives."

³ Americans for Gun Safety, *Stolen Firearms: Arming the Enemy* 6, 8 (Dec. 2002). This equates to 16.8 stolen firearms for every 1,000 U.S. households.

⁴ *Id.* at 6.

⁵ Bureau of Alcohol, Tobacco & Firearms, U.S. Department of the Treasury, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* xi, 41 (June 2000), at http://www.atf.gov/pub/fire-explo_pub/pdf/followingthegun_internet.pdf.

⁶ Bureau of Justice Statistics Selected Findings, U.S. Department of Justice, *Firearms, Crime, and Criminal Justice: Guns Used in Crime* 3 (July 1995), at <http://www.ojp.usdoj.gov/bjs/pub/pdf/guic.pdf>.

percent of the investigations which involved guns stolen from residences.⁷ A 1997 U.S. Department of Justice survey found that 8.4% of state prison inmates who used or possessed a firearm during the offense for which they were incarcerated obtained the gun from the illegal market.⁸

Summary of Federal Law

Federal law does not require individual gun owners or other lawful possessors of firearms to report the loss or theft of a firearm to law enforcement.

Federal law requires that licensed firearms dealers report the loss or theft of any firearm from the dealer's inventory to the U.S. Attorney General or local law enforcement within 48 hours of discovering the loss or theft.⁹

SUMMARY OF STATE LAWS GOVERNING REPORTING OF LOST OR STOLEN FIREARMS

Seven states and the District of Columbia require firearm owners to report the loss or theft of their firearms to law enforcement. Four other states have adopted loss or theft reporting provisions for specific circumstances, but the reporting is not mandatory.

Mandatory Loss/Theft Reporting

<u>Connecticut</u>	Conn. Gen. Stat. § 53-202g
<u>District of Columbia</u>	D.C. Code Ann. §§ 7-2502.08(1)(A), 7-2502.09(4)
<u>Massachusetts</u>	Mass. Gen. Laws ch. 140, § 129C
<u>Michigan</u>	Mich. Comp. Laws § 28.430
<u>New Jersey</u>	N.J. Stat. Ann. § 2C:58-19 (adopted January 2008)
<u>New York</u>	N.Y. Penal Law § 400.10
<u>Ohio</u>	Ohio Rev. Code Ann. § 2923.20(A)(5), (B)
<u>Rhode Island</u>	R.I. Gen. Laws § 11-47-48.1

Other Loss/Theft Reporting Laws

<u>California</u>	Cal. Penal Code § 12072(a)(9)(B)(xi)
<u>Maryland</u>	Md. Code Ann., Pub. Safety § 5-128(a)(8)
<u>New Jersey</u>	N.J. Stat. Ann. § 2C:58-12(g)
<u>Virginia</u>	Va. Code Ann. § 18.2-308.2:2(P)(2)(f)

Description of State Laws Governing Reporting of Lost or Stolen Firearms:

1. *States that Require Loss/Theft Reporting:* In New York and Rhode Island, owners must report the loss or theft of any firearm to local law enforcement within 24 hours of discovery. Local law enforcement in New York then reports the information to the state

⁷ *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers*, *supra* note 5, at 11, 41.

⁸ Bureau of Justice Statistics Special Report, U.S. Department of Justice, *Firearm Use by Offenders: Survey of Inmates in State and Federal Correctional Facilities* 6 (Nov. 2001), at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fuo.pdf>.

⁹ 18 U.S.C. § 923(g)(6).

police. New Jersey requires owners to report the loss or theft of any firearm to local law enforcement where the loss or theft occurred (or to the Superintendent of State Police if the locality has no police force) within 36 hours of discovery. Connecticut's reporting requirement applies to any firearm¹⁰ or assault weapon, requiring owners to report the loss or theft to local law enforcement within 72 hours of discovery. Local law enforcement in Connecticut reports the information to the state police.

In Massachusetts, firearm owners are required to report the loss or theft of any firearm to the state police and the local licensing authority; no time period is specified for reporting. Penalties for a violation of the Massachusetts law include suspension or permanent revocation of the owners' firearm identification card or license to carry firearms.

The District of Columbia's law applies to any registered firearm,¹¹ and applies "immediately" upon discovery of the loss or theft. Registration certificates are revoked if the owner fails to report any registered firearm that is lost or stolen.

Ohio law requires that an owner report to law enforcement "forthwith" the loss or theft of any firearm "in the person's possession or under the person's control."

Michigan's law applies only to thefts of firearms, which must be reported within five days of discovery to a "police agency having jurisdiction over that theft."¹²

2. *Other Loss/Theft Reporting Laws:* In California and Virginia, persons who report the theft or loss of a handgun may claim an exception to the state's prohibition on the purchase of more than one handgun in any 30-day period. Maryland law is similar, but applies to handguns and assault weapons. In both states, any person whose gun is irretrievably lost or stolen within the 30-day period and who deems it essential that the gun be replaced immediately may apply to purchase another firearm within the period, provided he or she reports the loss or theft to law enforcement, obtains a copy of the official police report, and provides that report to a firearms dealer prior to purchasing the replacement.

¹⁰ Connecticut law defines "firearm" to include any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded, from which a shot may be discharged. Conn. Gen. Stat. § 53a-3(19).

¹¹ The District of Columbia's registration law serves as a ban on most classes of firearms within the District. Sawed-off shotguns, machine guns (including certain semiautomatic assault weapons), short-barreled rifles, and handguns not registered to the current owner before September 24, 1976, may not be registered. Although the statute does not directly identify the types of firearms that *may* be registered, at least one court has stated that long guns may be registered in the District of Columbia. See *Kuhn v. Cissel*, 409 A.2d 182, 186 (D.C. 1979). Note that in 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia's strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia. The U.S. Supreme Court granted *certiorari* on the following question: Whether the challenged provisions violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes? *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed. 2d 417 (2007). The Supreme Court is expected to issue its ruling in the case by June 2008.

¹² Mich. Comp. Laws § 28.430(1).

In New Jersey, if a registered assault weapon is used in the commission of a crime, the registered owner of that weapon is civilly liable for any damages resulting from that crime. This liability will not apply if the assault weapon was stolen and the registered owner reported the theft to law enforcement within 24 hours of his or her knowledge of the theft.

SUMMARY OF SELECTED¹³ LOCAL LAWS REQUIRING REPORTING OF LOST OR STOLEN FIREARMS

Local Laws Requiring Loss/Theft Reporting

Chicago	Chicago, Ill., Code §§ 8-20-140(a)(1), (b), 8-20-120(d)
Cleveland	Cleveland, Ohio, Code § 627.06(a)(4)
Columbus	Columbus, Ohio, Code § 2323.20(A)(4)
Hartford	Hartford, Conn., Code §§ 21-61 – 21-63
Los Angeles	Los Angeles, Cal., Code ch. V, art. 5, § 55.12
New York City	New York, N.Y., Rules tit. 38, §§ 3-09, 5-30
San Francisco	San Francisco, Cal., Police Code art. 9, § 616

Chicago: Chicago requires registered owners of firearms to report the loss, theft or destruction of a registration certificate or registered firearm immediately upon discovery of the loss, theft or destruction. A firearm registrant must immediately return his or her copy of the registration certificate for any firearm which is lost, stolen or destroyed. The registration certificate will be revoked if the registrant fails to report the loss, theft or destruction of a registered firearm.

Cleveland: Cleveland requires any person with a firearm “in such person’s possession or under his or her control” to report “forthwith” the loss or theft of the firearm. Knowing failure to report imposes criminal liability.

Columbus: Columbus prohibits any person from knowingly failing to report “forthwith” the loss or theft of any firearm in the “person’s possession or under his or her control.”

Hartford: Any lawful firearm owner in Hartford must report the loss or theft of a firearm “from premises in the city or from their person” within 72 hours of becoming aware of the loss or theft. In the event a lost or stolen firearm is determined to have been used to aid or abet the commission of a felony and the Hartford Police determine that the owner of the firearm failed to report its loss or theft as required by ordinance, the City of

¹³ This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor’s veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled “The Legal Background.”

Hartford, on a showing of good cause, may sue the owner to recover the costs to the city of police services and other expenses associated with the investigation and prosecution of the felony.

Los Angeles: Owners or possessors of firearms in Los Angeles must report the theft or loss of the firearm within 48 hours of becoming aware of the theft or loss, whenever: 1) the person resides in Los Angeles; or 2) the theft or loss of the firearm occurs in Los Angeles. In addition, any person who has experienced the theft or loss of a firearm within the five years prior to the effective date of the ordinance – December 3, 2006 – without the firearm having been recovered during that period, and who meets the general reporting requirements in the ordinance, was required to report the theft or loss within 60 days of the effective date of the ordinance.

New York City: In New York City, any person with a rifle or shotgun permit must report all lost or stolen permit documents and rifles or shotguns to the precinct where the person resides or where the loss or theft was discovered. A handgun licensee must immediately report an “incident” – which includes the loss or theft of a handgun or license – to the city License Division’s Incident Section for handguns and to the precinct where the loss or theft occurred.

San Francisco: Any firearm owner or possessor in San Francisco must report the theft or loss of his or her firearm within 48 hours of becoming aware of the loss or theft, if: 1) the owner resides in San Francisco; or 2) the theft or loss of the firearm occurs in San Francisco.

FEATURES OF COMPREHENSIVE LAW REQUIRING THE REPORTING OF LOST OR STOLEN FIREARMS

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Firearm owners are required to report the loss or theft of any firearm as soon as possible after discovery, either immediately or within 24 hours of discovery (*Ohio, District of Columbia, Chicago, Cleveland, Columbus, New York City – immediately; New York, Rhode Island – within 24 hours*)
- Require owners of firearms lost or stolen (and not recovered) within a designated time period prior to the adoption of the law to report to law enforcement within a reasonable period (*Los Angeles – applies to losses/thefts within 5 years prior to effective date of ordinance, owners must report within 60 days*)
- Reporting requirements should apply to all firearm types (*Connecticut, Massachusetts, Michigan, New Jersey, New York, Ohio, Rhode Island, District of*

Columbia, Chicago, Cleveland, Columbus, Hartford, Los Angeles, New York City, San Francisco)

- Lost and stolen firearms are reported to local and state law enforcement (*Connecticut, Massachusetts, New York*)
- Firearm owners are subject to civil liability for failure to report a lost or stolen firearm that is later used in crime (*New Jersey -- assault weapons only, Hartford*)
- Reporting of lost or stolen firearms is a condition of any license or registration required by the jurisdiction, and license/registration is subject to revocation for failure to report (*District of Columbia, Massachusetts, Chicago*)

Connecticut - Sec. 53-202g. Report of loss or theft of assault weapon or other firearm. Penalty. *(a) Any person who lawfully possesses an assault weapon under sections 29-37j and 53-202a to 53-202k, inclusive, and subsection (h) of section 53a-46a or a firearm, as defined in section 53a-3, that is lost or stolen from such person shall report the loss or theft to the organized local police department for the town in which the loss or theft occurred or, if such town does not have an organized local police department, to the state police troop having jurisdiction for such town within seventy-two hours of when such person discovered or should have discovered the loss or theft. Such department or troop shall forthwith forward a copy of such report to the Commissioner of Public Safety. The provisions of this subsection shall not apply to the loss or theft of an antique firearm as defined in subsection (b) of section 29-37a.*

District of Columbia -

§ 7-2502.08. Duties of registrants [Formerly § 6-2318].

Each person and organization holding a registration certificate, in addition to any other requirements imposed by this unit, or the acts of Congress, shall:

(1) Notify the Chief in writing of:

(A) The loss, theft, or destruction of the registration certificate or of a registered firearm (including the circumstances, if known) immediately upon discovery of such loss, theft, or destruction;

(B) A change in any of the information appearing on the registration certificate or required by § 7-2502.03;

(C) The sale, transfer or other disposition of the firearm not less than 48 hours prior to delivery, pursuant to such sale, transfer or other disposition, including:

(i) Identification of the registrant, the firearm and the serial number of the registration certificate;

(ii) The name, residence, and business address and date of birth of the person to whom the firearm has been sold or transferred; and

(iii) Whether the firearm was sold or how it was otherwise transferred or disposed of.

(2) Return to the Chief, the registration certificate for any firearm which is lost, stolen, destroyed, or otherwise transferred or disposed of, at the time he notifies the Chief of such loss, theft, destruction, sale, transfer, or other disposition.

(3) Have in his possession, whenever in possession of a firearm, the registration certificate for such firearm, and exhibit the same upon the demand of a member of the Metropolitan Police Department, or other law enforcement officer.

(1973 Ed., § 6-1818; Sept. 24, 1976, D.C. Law 1-85, title II, § 208, 23 DCR 2464; 1981 Ed., § 6-2318.)

§ 7-2502.09. Revocation of registration certificate [Formerly § 6-2319].

A registration certificate shall be revoked if:

- (1) Any of the criteria in § 7-2502.03 are not currently met;
- (2) The registered firearm has become an unregistrable firearm under the terms of § 7-2502.02, or a destructive device;
- (3) The information furnished to the Chief on the application for a registration certificate proves to be intentionally false; or
- (4) There is a violation or omission of the duties, obligations or requirements imposed by § 7-2502.08.***

(1973 Ed., § 6-1819; Sept. 24, 1976, D.C. Law 1-85, title II, § 209, 23 DCR 2464; 1981 Ed., § 6-2319.)

Massachusetts - Chapter 140: Section 129C. Application of Sec. 129B; ownership or possession of firearms or ammunition; transfers; report to executive director; exemptions; exhibiting license to carry, etc. on demand

Section 129C. No person, other than a licensed dealer or one who has been issued a license to carry a pistol or revolver or an exempt person as hereinafter described, shall own or possess any firearm, rifle, shotgun or ammunition unless he has been issued a firearm identification card by the licensing authority pursuant to the provisions of section one hundred and twenty-nine B.

No person shall sell, give away, loan or otherwise transfer a rifle or shotgun or ammunition other than (a) by operation of law, or (b) to an exempt person as hereinafter described, or (c) to a licensed dealer, or (d) to a person who displays his firearm identification card, or license to carry a pistol or revolver.

A seller shall, within seven days, report all such transfers to the executive director of the criminal history systems board according to the provisions set forth in section one hundred and twenty-eight A, and in the case of loss, theft or recovery of any firearm, rifle, shotgun or machine gun, a similar report shall be made forthwith to both the executive director of the criminal history systems board and the licensing authority in the city or town where the owner resides. Failure to so report shall be cause for suspension or permanent revocation of such person's firearm identification card or license to carry firearms, or both, and shall be punished by a fine of not less than \$200 nor more than

\$1,000 for a first offense and by a fine of not less than \$1,000 nor more than \$5,000 for a second offense.

The provisions of this section shall not apply to the following exempted persons and uses:

- (a) Any device used exclusively for signalling or distress use and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or for the firing of stud cartridges, explosive rivets or similar industrial ammunition;
- (b) Federally licensed firearms manufacturers or wholesale dealers, or persons employed by them or by licensed dealers, or on their behalf, when possession of firearms, rifles or shotguns is necessary for manufacture, display, storage, transport, installation, inspection or testing;
- (c) To a person voluntarily surrendering a firearm, rifle or shotgun and ammunition therefor to a licensing authority, the colonel of the state police or his designee if prior written notice has been given by said person to the licensing authority or the colonel of the state police, stating the place and approximate time of said surrender;
- (d) The regular and ordinary transport of firearms, rifles or shotguns as merchandise by any common carrier;
- (e) Possession by retail customers for the purpose of firing at duly licensed target concessions at amusement parks, piers and similar locations, provided that the firearms, rifles or shotguns to be so used are firmly chained or affixed to the counter and that the proprietor is in possession of a firearm identification card or license to carry firearms;
- (f) Possession of rifles and shotguns and ammunition therefor by nonresident hunters with valid nonresident hunting licenses during hunting season;
- (g) Possession of rifles and shotguns and ammunition therefor by nonresidents while on a firing or shooting range;
- (h) Possession of rifles and shotguns and ammunition therefor by nonresidents traveling in or through the commonwealth, providing that any rifles or shotguns are unloaded and enclosed in a case;
- (i) Possession of rifles and shotguns by nonresidents while at a firearm showing or display organized by a regularly existing gun collectors' club or association;
- (j) Any new resident moving into the commonwealth, any resident of the commonwealth returning after having been absent from the commonwealth for not less than 180 consecutive days or any resident of the commonwealth upon being released from active service with any of the armed services of the United States with respect to any firearm, rifle or shotgun and any ammunition therefor then in his possession, for 60 days after such release, return or entry into the commonwealth;

(k) Any person under the age of fifteen with respect to the use of a rifle or shotgun by such person in hunting or target shooting, provided that such use is otherwise permitted by law and is under the immediate supervision of a person holding a firearm identification card or a license to carry firearms, or a duly commissioned officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth or reserve components thereof, while in the performance of his duty;

(l) The possession or utilization of any rifle or shotgun during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer or writer for examination purposes in the pursuit of his profession, providing such possession or utilization is under the immediate supervision of a holder of a firearm identification card or a license to carry firearms;

(m) The temporary holding, handling or firing of a firearm for examination, trial or instruction in the presence of a holder of a license to carry firearms, or the temporary holding, handling or firing of a rifle or shotgun for examination, trial or instruction in the presence of a holder of a firearm identification card, or where such holding, handling or firing is for a lawful purpose;

(n) The transfer of a firearm, rifle or shotgun upon the death of an owner to his heir or legatee shall be subject to the provisions of this section, provided that said heir or legatee shall within one hundred and eighty days of such transfer, obtain a firearm identification card or a license to carry firearms if not otherwise an exempt person who is qualified to receive such or apply to the licensing authority for such further limited period as may be necessary for the disposition of such firearm, rifle or shotgun;

(o) Persons in the military or other service of any state or of the United States, and police officers and other peace officers of any jurisdiction, in the performance of their official duty or when duly authorized to possess them;

(p) Carrying or possession by residents or nonresidents of so-called black powder rifles, shotguns, and ammunition therefor as described in such paragraphs (A) and (B) of the third paragraph of section 121, and the carrying or possession of conventional rifles, shotguns, and ammunition therefor by nonresidents who meet the requirements for such carrying or possession in the state in which they reside.

[There is no clause (q).]

(r) Possession by a veteran's organization chartered by the Congress of the United States, chartered by the commonwealth or recognized as a nonprofit tax-exempt organization by the Internal Revenue Service and possession by the members of any such organization when on official parade duty or ceremonial occasions.

(s) Possession by federal, state and local historical societies, museums, and institutional collections open to the public, provided such firearms, rifles or shotguns are unloaded, properly housed and secured from unauthorized handling;

(t) the possession of firearms, rifles, shotguns, machine guns and ammunition, by banks or institutional lenders, or their agents, servants or employees, when the same are possessed as collateral for a secured commercial transaction or as a result of a default under a secured commercial transaction.

(u) Any nonresident who is eighteen years of age or older at the time of acquiring a rifle or shotgun from a licensed firearms dealer; provided, however, that such nonresident must hold a valid firearms license from his state of residence; provided, further, that the licensing requirements of such nonresident's state of residence are as stringent as the requirements of the commonwealth for a firearm identification card, as determined by the colonel of the state police who shall, annually, publish a list of those states whose requirements comply with the provisions of this clause.

Any person, exempted by clauses (o), (p) and (q), purchasing a rifle or shotgun or ammunition therefor shall submit to the seller such full and clear proof of identification, including shield number, serial number, military or governmental order or authorization, military or other official identification, other state firearms license, or proof of nonresidence, as may be applicable.

Nothing in this section shall permit the sale of rifles or shotguns or ammunition therefor to a minor under the age of eighteen in violation of section one hundred and thirty nor may any firearm be sold to a person under the age of 21 nor to any person who is not licensed to carry firearms under section one hundred and thirty-one unless he presents a valid firearm identification card and a permit to purchase issued under section one hundred and thirty-one A, or presents such permit to purchase and is a properly documented exempt person as hereinbefore described.

Nothing in this section shall permit the sale or transfer of any large capacity rifle or shotgun or large capacity feeding device therefor to any person not in possession of a Class A or Class B license to carry firearms issued under section 131, or of any large capacity firearm or large capacity feeding device therefor to any person not in possession of a Class A license to carry firearms issued under section 131.

The possession of a firearm identification card issued under section one hundred and twenty-nine B shall not entitle any person to carry a firearm in violation of section ten of chapter two hundred and sixty-nine and, the possession of a firearm identification card issued under section 129B shall not entitle any person to possess any large capacity rifle or shotgun or large capacity feeding device therefor in violation of subsection (m) of said section 10 of said chapter 269.

Any person who, while not being within the limits of his own property or residence, or such person whose property or residence is under lawful search, and who is not exempt

under this section, shall on demand of a police officer or other law enforcement officer, exhibit his license to carry firearms, or his firearm identification card or receipt for fee paid for such card, or, after January first, nineteen hundred and seventy, exhibit a valid hunting license issued to him which shall bear the number officially inscribed of such license to carry or card if any. Upon failure to do so such person may be required to surrender to such officer said firearm, rifle or shotgun which shall be taken into custody as under the provisions of section one hundred and twenty-nine D, except that such firearm, rifle or shotgun shall be returned forthwith upon presentation within thirty days of said license to carry firearms, firearm identification card or receipt for fee paid for such card or hunting license as hereinbefore described. Any person subject to the conditions of this paragraph may, even though no firearm, rifle or shotgun was surrendered, be required to produce within thirty days said license to carry firearms, firearm identification card or receipt for fee paid for such card, or said hunting license, failing which the conditions of section one hundred and twenty-nine D will apply. Nothing in this section shall prevent any person from being prosecuted for any violation of this chapter.

Michigan - 28.430 Theft of firearm; report required; failure to report theft as civil violation; penalty.

Sec. 10.

(1) A person who owns a firearm shall, within 5 days after he or she knows his or her firearm is stolen, report the theft to a police agency having jurisdiction over that theft.

(2) A person who fails to report the theft of a firearm as required under subsection (1) is responsible for a civil violation and may be fined not more than \$500.00.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991

Compiler's Notes: Former sections 10 and 11 were not compiled.

Popular Name: CCW

Popular Name: Concealed Weapons

Popular Name: Right to Carry

Popular Name: Shall Issue

New Jersey - New Jersey requires gun owners to report the loss or theft of any firearm to local law enforcement of the jurisdiction where the loss or theft occurred (or to the Superintendent of State Police if the locality has no police force) within 36 hours of discovery of the loss or theft. N.J. Stat. Ann. § 2C:58-19.

Here is the pdf link to the language -

http://www.njleg.state.nj.us/2006/Bills/AL07/299_.PDF

New York - § 400.10 Report of theft or loss of a firearm, rifle or shotgun.

1. (a) Any owner or other person lawfully in possession of a firearm, rifle or shotgun who suffers the loss or theft of said weapon shall within twenty-four hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.

(b) Whenever a person reports the theft or loss of a firearm, rifle or shotgun to any police department or sheriff's office, the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York Statewide Police Information Network. The notice shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon.

2. The division of state police shall receive, collect and file the information referred to in subdivision one of this section. The division shall cooperate, and undertake to furnish or make available to law enforcement agencies this information, for the purpose of coordinating law enforcement efforts to locate such weapons.

3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be punishable only by a fine not to exceed one hundred dollars.

Ohio - 2923.20 Unlawful transaction in weapons.

(A) No person shall:

(1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by section 2923.13 or 2923.15 of the Revised Code from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by section 2923.13, 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance;

(2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (A) of this section;

(3) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife, or similar weapon;

(4) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license, or permit showing him to be authorized to acquire dangerous ordnance pursuant to section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy

of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(5) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(B) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of division (A)(1) or (2) of this section is a felony of the fourth degree. A violation of division (A)(3) or (4) of this section is a misdemeanor of the second degree. A violation of division (A)(5) of this section is a misdemeanor of the fourth degree.

Rhode Island - § 11-47-48.1 Report of lost or stolen weapons. – Every person who owns a firearm shall report the loss or theft of their firearm to the local law enforcement agency within twenty-four (24) hours of the discovery of the loss or theft. Whoever knowingly violates this section shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

Hanaman, Cathlene

From: Winship, Hope
Sent: Tuesday, July 21, 2009 3:22 PM
To: Hanaman, Cathlene
Subject: Straw Purchasing Bill

Attachments: Proposal to Require Reporting of Lost or Stolen Firearms.doc; reporting_lost_stolen.pdf; State Statutes for Mandatory Reporting of Lost and Stolen Firearms.doc

Cathlene,

I'm including three documents below. The "Proposal to Require Reporting of Lost & Stolen Firearms" is a briefing document compiled by the City of Milwaukee that explains the intent of our bill. The "Reporting Lost and Stolen" document gives more background about this type of legislation and examples of this legislation across the country. The "State Statutes" document has examples of language that was used in other states.

Rep. Richards would like to clarify that the time period that a person has to report their lost or stolen firearm is 24 hours after it has been noticed to be missing. He would also like the penalty aspect of this law to mirror the Massachusetts law, with the option to temporarily suspend or revoke a person's license to carry along with the graduated fines noted in the Massachusetts law, which I've also included below.

“Failure to so report shall be cause for suspension or permanent revocation of such person’s firearm identification card or license to carry firearms, or both, and shall be punished by a fine of not less than \$200 nor more than \$1,000 for a first offense and by a fine of not less than \$1,000 nor more than \$5,000 for a second offense.”

If you have any clarification questions please don't hesitate to contact me.

Thank you,
Hope



Proposal to Require reporting_lost_stole State Statutes for
Reporting ... n.pdf (48 ... Mandatory R...

Hope Winship
Office of Rep. Jon Richards
608-266-0650 (office)
888-534-0019 (toll free)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3165

CMH:.....

pl
Lbjk

- Andle -

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
X-ref

Creating
a database
for stolen
and
lost
firearms
(example)

① AN ACT ^{gen.}...; relating to: requiring a person to report a stolen or lost firearm and
2 providing a penalty.

Analysis by the Legislative Reference Bureau

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

3 SECTION 1. 165.83 (2) (d) of the statutes is amended to read:
4 165.83 (2) (d) ~~Obtain~~ Except as provided in par. (dd), obtain and file
5 information relating to identifiable stolen or lost property.

History: 1971 c. 219; 1983 a. 27, 535; 1985 a. 29; 1993 a. 407; 1995 a. 448; 1997 a. 27; 2007 a. 27.

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

1 purpose of locating and identifying stolen or lost firearms and identifying violators
2 of s. 175.36 (1).

3 2. If a law enforcement ^{agency} officer notifies the department under s. 175.36 (2) (b)
4 that a stolen or lost firearm has been recovered, add to the database a notation that
5 the firearm has been recovered and the date on which it was recovered.

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

7 **175.36 Reporting stolen or lost firearm.** (1) (a) A person who owns a
8 firearm and who discovers that the firearm is stolen or lost shall, with 5 days of the
9 discovery, report the theft or loss to a law enforcement agency that has jurisdiction
10 over the area in which the firearm was stolen or lost.

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

14 (2) (a) A law enforcement agency that receives a report of a stolen or lost
15 firearm shall do all of the following:

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

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

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

20 c. The serial number of the firearm.

21 d. Any distinguishing mark on the firearm.

22 2. As soon as practicable, forward a copy of the file ^{created under substat} to the department of justice
23 for inclusion in a database under s. 165.83 (2) (dd).

24 (b) A law enforcement agency that receives a report of a recovered firearm shall
25 report to the department of justice the date on which the firearm was recovered.

1 (3) A person who violates sub. (1) (a) may be fined not more than \$500 or
2 imprisoned for not more than 30 days or both.

3 **SECTION 4. Nonstatutory provisions.**

a.r.A. B a.r.

4 (1) (a) 1. A person whose firearm was discovered to be stolen or lost no more
5 than 5 years before the effective date of this subdivision has 90 days from the effective
6 date of this subdivision to report the theft or loss to a law enforcement agency that has
7 jurisdiction over the area in which the firearm was stolen or lost.

8 2. If a person who has reported a firearm that was discovered to be stolen or
9 lost no more than 5 years before the effective date of this subdivision recovers the
10 firearm, the person shall report as soon as practicable to a law enforcement agency
11 the date on which the firearm was recovered.

12 (b) A person who violates paragraph (a) 1. may be fined not more than \$500 or
13 imprisoned for not more than 30 days or both.

14 (c) The requirement under paragraph (a) does not apply to a person if the stolen
15 or lost firearm was recovered on or before the effective date of this paragraph.

16 (2) If the department of justice has filed under section 165.83 (2) (d) of the
17 statutes information related to firearms that were stolen or lost no more than 5 years
18 before the effective date of this subsection, the department of justice shall transfer
19 that information to the database under section 165.83 (2) (dd) 1. of the statutes, as
20 created by this act, unless the department of justice knows that the firearm was
21 recovered.

22 **SECTION 5. Initial applicability.**

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

25 (END)

D-note

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

Date

LRB-3165/Jan

CMH:.....

PI
e
bjk

Beau: → Brett

I made this draft a preliminary draft because you may want to change some of the details. You provided many laws and ordinances as models so some details that vary among these models, such as the penalty for violating the provision or the timeframe in which one must report a loss or theft of a firearm, may need changing. Also, please note that, as drafted, the Department of Justice will function as a clearinghouse for information.

I did not amend s. 946.41 to include falsely reporting to a police officer that a firearm has been lost or stolen. Section 946.41, as written, should cover such an action. For instance, see *State v. Caldwell*, 154 Wis. 2d 683, 454 N.W.2d 13 (Ct. App. 1990), which finds that knowingly providing false information with intent to mislead is obstruction as a matter of law.

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

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

LRB-3165/P1dn
CMH:bjk:jf

September 4, 2009

Brett:

I made this draft a preliminary draft because you may want to change some of the details. You provided many laws and ordinances as models so some details that vary among these models, such as the penalty for violating the provision or the timeframe in which one must report a loss or theft of a firearm, may need changing. Also, please note that, as drafted, the Department of Justice will function as a clearinghouse for information.

I did not amend s. 946.41 to include falsely reporting to a police officer that a firearm has been lost or stolen. Section 946.41, as written, should cover such an action. For instance, see *State v. Caldwell*, 154 Wis. 2d 683, 454 N.W.2d 13 (Ct. App. 1990), which finds that knowingly providing false information with intent to mislead is obstruction as a matter of law.

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

Hanaman, Cathlene

From: Blomme, Brett
Sent: Friday, September 18, 2009 4:27 PM
To: Hanaman, Cathlene
Subject: LRB-3165

Hi Cathlene,

I have the following changes to the Straw Purchasing legislation.

1. Reduce the 5 day window upon discovery to report down to 24-48 hours.
2. Create a graduated penalty for multiple offenses. For the first offense, charge a Class B misdemeanor. For a second and subsequent offense, charge a Class A misdemeanor.
3. Delete Section 4's Nonstatutory Provisions concerning requiring anyone who had their firearm lost or stolen 5 years prior to enactment to report.
4. Creating a penalty for someone who is falsely reporting a lost or stolen firearm (in an effort to lie to the police and circumvent the proposed law). *s. 946.41*
5. Create a mandate that would require sellers to provide information when making a firearm sale to a purchaser that if they have their gun lost or stolen, that they need to report it. Basically identify this law when purchasing a firearm.

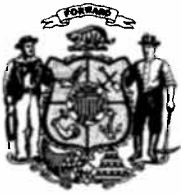
Please let me know if you have any questions.

Thanks!
Brett

Brett Blomme
Office of Representative Jon Richards
(608) 266-0650
brett.blomme@legis.wisconsin.gov

in
/pl d-100

emailed too



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3165/21

CMH:bjk:jf

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
KREF

Inserts

Refer out

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

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.
For further information see the state and local fiscal estimate, which will be
printed as an appendix to this bill.~~

INS
A

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

4 SECTION 1. 165.83 (2) (d) of the statutes is amended to read:
5 165.83 (2) (d) Obtain Except as provided in par. (dd), obtain and file
6 information relating to identifiable stolen or lost property.
7 SECTION 2. 165.83 (2) (dd) of the statutes is created to read:
8 165.83 (2) (dd) 1. If a law enforcement agency forwards a file under s. 175.36
9 (2) (a) 2. to the department, put the file in a database that is created for stolen or lost

1 firearms and make the database available to law enforcement agencies for the
2 purpose of locating and identifying stolen or lost firearms and identifying violators
3 of s. 175.36 (1).

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

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

8 **175.36 Reporting stolen or lost firearm.** (1) (a) A person who owns a
9 firearm and who discovers that the firearm is stolen or lost shall ^{within 48 hours} with 5 days of the
10 discovery, report the theft or loss to a law enforcement agency that has jurisdiction
11 over the area in which the firearm was stolen or lost.

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

15 (2) (a) A law enforcement agency that receives ^{under subc(1)(a)} a report of a stolen or lost
16 firearm shall do all of the following:

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

- 19 a. The date on which the firearm was stolen or lost.
- 20 b. The caliber, make, and model of the firearm.
- 21 c. The serial number of the firearm.
- 22 d. Any distinguishing mark on the firearm.

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

under sub (1) (b)

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

3 (3) A person who violates sub. (1) (a) may be fined not more than \$500 or
4 imprisoned for not more than 30 days or both. IN 3 3-4

5 **SECTION 4. Nonstatutory provisions.**

6 (1) (a) 1. A person whose firearm was discovered to be stolen or lost no more
7 than 5 years before the effective date of this subdivision has 90 days from the
8 effective date of this subdivision to report the theft or loss to a law enforcement
9 agency that has jurisdiction over the area in which the firearm was stolen or lost.

10 2. If a person who has reported a firearm that was discovered to be stolen or
11 lost no more than 5 years before the effective date of this subdivision recovers the
12 firearm, the person shall report as soon as practicable to a law enforcement agency
13 the date on which the firearm was recovered.

14 (b) A person who violates paragraph (a) 1. may be fined not more than \$500 or
15 imprisoned for not more than 30 days or both.

16 (c) The requirements under paragraph (a) do not apply to a person if the stolen
17 or lost firearm was recovered on or before the effective date of this paragraph.

18 (2) If the department of justice has filed under section 165.83 (2) (d) of the
19 statutes information related to firearms that were stolen or lost no more than 5 years
20 before the effective date of this subsection, the department of justice shall transfer
21 that information to the database under section 165.83 (2) (dd) 1. of the statutes, as
22 created by this act, unless the department of justice knows that the firearm was
23 recovered.

24 **SECTION 5. Initial applicability.**

1 Insert A

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

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

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.

2

3 Insert 3-4

4 is guilty of the following:

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

6 (b) If the violation is the person's ^{2nd} ~~second~~ or subsequent offense, a Class A
7 misdemeanor.

8 **SECTION 1.** 175.37 (title) of the statutes is amended to read:

9 **175.37 (title) Warning Requirements whenever transferring a firearm.**

History: 1991 a.139.

10 **SECTION 2.** 175.37 (1m) of the statutes is created to read:

11 **175.37 (1m)** Upon the retail commercial sale or retail commercial transfer of
12 any firearm, the seller or transferor shall provide to the buyer or transferee a written

1 notice of the requirements under s. 175.36 (1) and of the penalties under s. 175.36
2 (3).

3 **SECTION 3.** 175.37 (2) of the statutes is amended to read:

4 175.37 (2) Any person who violates sub. (1) or (1m) may be fined not more than
5 \$500 or imprisoned for not more than 30 days or both.

History: 1991 a. 139.

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

3 (END)

¶ (#) ~~AA~~ = The treatment of section 175.37 ~~Δ~~ (1m) of the
statutes first applies to sales and transfers that occur
on the effective date of this subsection. (C)



State of Wisconsin
2009 - 2010 LEGISLATURE

R3
LRB-3165/P2
CMH:bjk:ph
KJF

WEDS. 4 possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ref r cd

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

Analysis by the Legislative Reference Bureau

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

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

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

✓

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

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

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

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

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

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

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

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

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

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

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

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

7 c. The serial number of the firearm.

8 d. Any distinguishing mark on the firearm.

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

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

14 ^{INS} [→] (3) A person who violates sub. (1) (a) is guilty of the following:
₃₋₁₄ (4 ← 3)

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

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

18 SECTION 4. 175.37 (title) of the statutes is amended to read: ✓

19 175.37 (title) **Warning Requirements whenever transferring a firearm.**

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

21 175.37 (1m) Upon the retail commercial sale or retail commercial transfer of
22 any firearm, the seller or transferor shall provide to the buyer or transferee a written
23 notice of the requirements under s. 175.36 (1) and of the penalties under s. 175.36

24 (3).
⁴

25 SECTION 6. 175.37 (2) of the statutes is amended to read: ✓

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3165/p3ins
CMH:.....

1 Insert A

2 ~~not~~ A person who falsely reports a stolen or lost firearm is guilty of obstructing an
3 officer and is subject to a fine of up to \$10,000 or a sentence of imprisonment of up
4 to nine months, or both.

5 Insert 3-14

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

Hanaman, Cathlene

From: Blomme, Brett
Sent: Wednesday, September 30, 2009 5:39 PM
To: Hanaman, Cathlene
Subject: RE: Draft review: LRB 09-3165/P3 Topic: Requiring a report if firearm lost or stolen

Cathlene: If you could make one additional small change that would be great.

Under Section 175.36 (2)(a) add the location where the gun was purchased under the information that is obtained about the firearm when it is reported. If this is unclear please don't hesitate to give me a call.

With that minor change, please make it a /1 so we can get it introduced tomorrow. Thanks, and sorry for all the changes.

Brett

Brett Blomme
Rep. Richards
6-0650 -- 118N

From: Hanaman, Cathlene
Sent: Wednesday, September 30, 2009 5:32 PM
To: Blomme, Brett
Cc: Parisi, Lori
Subject: RE: Draft review: LRB 09-3165/P3 Topic: Requiring a report if firearm lost or stolen

Brett:

If you're happy with this bill, I will redraft it as a /1 so it can be jacketed. Is that OK?

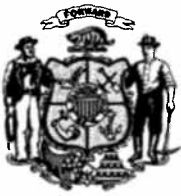
-Cathlene

From: Blomme, Brett
Sent: Wednesday, September 30, 2009 5:27 PM
To: Parisi, Lori; Hanaman, Cathlene
Subject: RE: Draft review: LRB 09-3165/P3 Topic: Requiring a report if firearm lost or stolen

Please send email so that we can jacket this bill. Thank you.

Brett Blomme
Office of Representative Jon Richards
(608) 266-0650
brett.blomme@legis.wisconsin.gov

10/01/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3165/23
CMH:bjk&kjf:rs
①
stays

→ TODAY PLEASE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA
Insert

→ report

1 AN ACT to amend 165.83 (2) (d), 175.37 (title) and 175.37 (2); and to create
2 165.83 (2) (dd), 175.36 and 175.37 (1m) of the statutes; relating to: requiring
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Under current law, a person who commercially transfers or sells a firearm to another person must provide the other person a written warning that he or she may be fined or imprisoned for leaving a loaded firearm within the easy access of a child if the child improperly possesses, discharges, or exhibits the firearm. This bill requires the seller or transferor to provide the other person a written notice of the requirement, created in this bill, to report a theft or loss of a firearm within 48 hours of discovering it. A seller or transferor who violates this requirement is subject to a fine of up to \$500 or imprisonment for up to 30 days, or both.

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

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

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

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

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

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

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

10 2. If a law enforcement agency notifies the department under s. 175.36 (2) (b)
11 that a stolen or lost firearm has been recovered, add to the database a notation that
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15 firearm and who discovers that the firearm is stolen or lost shall, within 48 hours of
16 the discovery, report the theft or loss to a law enforcement agency that has
17 jurisdiction over the area in which the firearm was stolen or lost.

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

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

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

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

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

10 c. The serial number of the firearm.

11 d. Any distinguishing mark on the firearm.

INS 3-12

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

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

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

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

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

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

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

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3165/1ins
CMH:.....

Insert 3-12

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

Barman, Mike

From: Blomme, Brett
Sent: Thursday, October 01, 2009 1:45 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-3165/1 Topic: Requiring a report if firearm lost or stolen

Please Jacket LRB 09-3165/1 for the ASSEMBLY.