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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Criminal Justice (AC-CJ)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly

Record of Committee Proceedings

Committee on Criminal Justice

Assembly Bill 357

Relating to: receiving a stolen firearm and providing a penalty.

By Representatives Hraychuck, LeMahieu, Berceau, Suder, Sinicki, Pridemore, Bernard Schaber, Vos, J. Ott, Townsend, Mursau, Brooks, A. Ott and Spanbauer; cosponsored by Senators Holperin and Olsen.

July 28, 2009 Referred to Committee on Criminal Justice.

October 15, 2009 **PUBLIC HEARING HELD**

Present: (9) Representatives Turner, Kessler, Hraychuck, Soletski, Pasch, Friske, Kramer, Brooks and Ripp.
Absent: (2) Representatives Staskunas and Kleefisch.

Appearances For

- Ann Hraychuck, Madison — State Representative
- Daniel LeMahieu, Madison — State Representative
- Gerald Urban — Sheriff, Sheboygan County
- Mike Helmke, Sheboygan — Sheriff, Sheboygan County

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- J.B. Van Hollen, Madison — Attorney General, State of Wisconsin
- Jim Holperin, Madison — Senator
- Alice O'Connor, Madison — WI Chiefs of Police Association
- Bob Welch, Madison — WI-FORCE

Registrations Against

- None.

Registrations for Information Only

- None.

December 10, 2009 **EXECUTIVE SESSION HELD**

Present: (9) Representatives Turner, Staskunas, Hraychuck, Pasch, Kleefisch, Friske, Kramer, Brooks and Ripp.

Absent: (2) Representatives Kessler and Soletski.

Moved by Representative Staskunas, seconded by Representative Kleefisch that **Assembly Bill 357** be recommended for passage.

Ayes: (9) Representatives Turner, Staskunas, Hraychuck, Pasch, Kleefisch, Friske, Kramer, Brooks and Ripp.

Noes: (0) None.

Absent: (2) Representatives Kessler and Soletski.

PASSAGE RECOMMENDED, Ayes 9, Noes 0



Nancy McAdams
Committee Clerk



Vote Record Committee on Criminal Justice

Date: 12-10-09

Moved by: Staskunas

Seconded by: Kleefisch

AB 357

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage
 Adoption
 Confirmation
 Concurrence
 Indefinite Postponement
 Introduction
 Rejection
 Tabling
 Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Robert Turner, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Frederick Kessler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative Anthony Staskunas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Ann Hraychuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative James Soletski	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Representative Sandy Pasch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Donald Friske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bill Kramer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Edward Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Keith Ripp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	_____	_____	<u>2</u>

Motion Carried

Motion Failed



MEMORANDUM

To: Bob
From: Nancy
Date: September 8, 2009
Re: Assembly Bill 357, by Rep. Hraychuck and Sen. Holperin

Bob, I had a note on this bill about whether you would want to hear in on October 1st, along with Marlin's bill. Stephanie in Rep. Hraychuck's office called today and said Rep. Hraychuck wondered if you were going to have a hearing on it. I think she noticed that a bill at last week's hearing had higher bill numbers than this bill (AB 365 by Rep. Barca).

I told Stephanie that I would ask you if you could include it on the agenda on October 1st. Last session it was introduced by Rep. LeMahieu and it passed Criminal Justice 11-0 and received a public hearing in the Senate Judiciary Committee.

Stephanie told me that the Assembly leadership likes the bill. I have attached information for you from last session to give you some background.

2 Dem authors

3 Dem
Cosponsors

7/27/09

Schedule 9/9

~~October 1st?~~

October 15
Let Talk about
this ..



McAdams, Nancy

From: Hilton, Stephanie
Sent: Tuesday, September 08, 2009 11:34 AM
To: McAdams, Nancy
Subject: AB 357

It was AB 411 last session--it passed the Assembly on a voice vote and received a public hearing in the Senate.

Stephanie Hilton
Legislative Assistant
Office of Rep. Ann Hraychuck
608-267-2365 or 1-888-529-0028
Room 6 North State Capitol

Packet

AB411

ASSEMBLY BILL 411

LC Amendment Memo

An Act to amend 943.34 (1) (bm) and 948.62 (1) (bm) of the statutes; relating to: receiving a stolen firearm, and providing a penalty.

2007

- 06-14-07. A. Introduced by Representatives LeMahieu, Friske, Bies, Albers, Hahn, Lothian, Musser and Townsend; cosponsored by Senators Olsen and Roessler.
- 06-14-07. A. Read first time and referred to committee on Criminal Justice. **214**
- 10-16-07. A. Public hearing held.
- 11-07-07. A. Executive action taken.
- 11-27-07. A. Report passage recommended by committee on Criminal Justice, Ayes 11, Noes 0. . . **365**
- 11-27-07. A. Referred to committee on Rules. **365**
- 12-14-07. A. Assembly amendment **1** offered by Representative LeMahieu. **403**

2008

- 01-17-08. A. Placed on calendar 1-23-2008 by committee on Rules.
- 01-23-08. A. Read a second time. **459**
- 01-23-08. A. Assembly amendment **1 adopted** **459**
- 01-23-08. A. Ordered to a third reading. **459**
- 01-23-08. A. Rules suspended. **459**
- 01-23-08. A. Read a third time and **passed**. **459**
- 01-23-08. A. Ordered immediately messaged. **459**
- 01-24-08. S. Received from Assembly. **536**
- 01-25-08. S. Read first time and referred to committee on Judiciary, Corrections, and Housing. . . . **540**
- 02-27-08. S. Public hearing held.
- 03-21-08. S. Failed to concur in pursuant to Senate Joint Resolution 1. **735**

Senate

Record of Committee Proceedings

Committee on Judiciary, Corrections, and Housing

Assembly Bill 411

Relating to: receiving a stolen firearm, and providing a penalty.

By Representatives LeMahieu, Friske, Bies, Albers, Hahn, Lothian, Musser and Townsend;
cosponsored by Senators Olsen and Roessler.

January 25, 2008 Referred to Committee on Judiciary, Corrections, and Housing.

February 27, 2008 **PUBLIC HEARING HELD**

Present: (5) Senators Taylor, Sullivan, Vinehout, Lazich and Grothman.
Absent: (0) None.

Appearances For

- Dan LeMahieu, Madison — Representative, WI Legislature

Appearances Against

- None.

Appearances for Information Only

- None.

Registrations For

- Luther Olsen, Madison — Senator , Wisconsin State Legislature
- Joe Kuntner — Milw Deputy Sheriffs Assc
- Bob Wierenga — WI County Police Assc
- Susan McMurray — AFSCME
- Jeff Wiswell, Monona

Registrations Against

- None.

Registrations for Information Only

- None.

March 13, 2008

Failed to concur pursuant to Senate Joint Resolution 1.

Michelle Bryant
Committee Clerk



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2007 Assembly Bill 411

Assembly Amendment 1

Memo published: January 28, 2008

Contact: Anne Sappenfield, Senior Staff Attorney (267-9485)

Under *current law*, whoever intentionally receives or conceals stolen property is subject to the following penalties:

- If the value of the property does not exceed \$2,500, a Class A misdemeanor.
- If the value of the property exceeds \$2,500 but does not exceed \$5,000, a Class I felony.
- If the value of the property exceeds \$5,000 but does not exceed \$10,000, a Class H felony.
- If the value of the property exceeds \$10,000, a Class G felony.

In addition, under current law, whoever receives stolen property from a child or conceals stolen property received from a child is subject to the following penalties:

- If the value of the property does not exceed \$500, a Class A misdemeanor.
- If the value of the property exceeds \$500 but does not exceed \$2,500, a Class I felony.
- If the value of the property exceeds \$2,500 but does not exceed \$5,000, a Class H felony.
- If the value of the property exceeds \$5,000, a Class G felony.

Assembly Bill 411 provides that it is a Class H felony to receive or conceal stolen property or to receive stolen property from a child or conceal stolen property received from a child if the property is a firearm.

Assembly Amendment 1 modifies the offense of receiving stolen property to provide that it must be knowingly or intentionally received. Under current law, there must be a showing that it was intentionally received.

Legislative History

Assembly Amendment 1 was offered by Representative LeMahieu. The Assembly adopted the amendment and passed Assembly Bill 411, as amended, on voice votes.

AS:wu



McAdams, Nancy

From: Hilton, Stephanie
Sent: Tuesday, September 08, 2009 12:14 PM
To: McAdams, Nancy
Subject: RE: AB 357

Yes, it was included in this session's draft. Thanks!

Stephanie Hilton
Legislative Assistant
Office of Rep. Ann Hraychuck
608-267-2365 or 1-888-529-0028
Room 6 North State Capitol

From: McAdams, Nancy
Sent: Tuesday, September 08, 2009 12:10 PM
To: Hilton, Stephanie
Subject: RE: AB 357

I have one question Stephanie. Has the amendment that passed the committee last session been incorporated into AB 357?

Nancy

From: Hilton, Stephanie
Sent: Tuesday, September 08, 2009 11:34 AM
To: McAdams, Nancy
Subject: AB 357

It was AB 411 last session--it passed the Assembly on a voice vote and received a public hearing in the Senate.

Stephanie Hilton
Legislative Assistant
Office of Rep. Ann Hraychuck
608-267-2365 or 1-888-529-0028
Room 6 North State Capitol



MEMORANDUM

To: Bob

From: Nancy

Date: September 8, 2009

Re: Assembly Bill 357, by Rep. Hraychuck and Sen. Holperin

Bob, I had a note on this bill about whether you would want to hear in on October 1st, along with Marlin's bill. Stephanie in Rep. Hraychuck's office called today and said Rep. Hraychuck wondered if you were going to have a hearing on it. I think she noticed that a bill at last week's hearing had higher bill numbers than this bill (AB 365 by Rep. Barca).

I told Stephanie that I would ask you if you could include it on the agenda on October 1st. Last session it was introduced by Rep. LeMahieu and it passed Criminal Justice 11-0 and received a public hearing in the Senate Judiciary Committee.

Stephanie told me that the Assembly leadership likes the bill. I have attached information for you from last session to give you some background.



McAdams, Nancy

From: Hilton, Stephanie
Sent: Wednesday, September 09, 2009 11:13 AM
To: McAdams, Nancy
Subject: RE: Assembly Bill 357

I'll forward this message to Ann. She is sick with bronchitis so she will unfortunately not be at the retreat today. But, maybe she can touch base with him next week during session.

Stephanie Hilton
Legislative Assistant
Office of Rep. Ann Hraychuck
608-267-2365 or 1-888-529-0028
Room 6 North State Capitol

From: McAdams, Nancy
Sent: Wednesday, September 09, 2009 11:06 AM
To: Hilton, Stephanie
Subject: Assembly Bill 357

Hi Stephanie,

I spoke with Bob this morning about this bill. He wanted to let Rep. Hraychuck know that the numbers of the bills in the Committee do not enter into his decision on whether to schedule a particular bill for a public hearing. He said that he will not be able to schedule AB 357 for the October 1st hearing, but will schedule it for a hearing on October 15th. He also said he had a few concerns about the number of Republican co-sponsors on the bill. He is also trying to keep some time open for bills that leadership asks him to hear as the fall floorperiod gets in full swing. Perhaps she could catch him at the retreat this afternoon if she would like to discuss it in more detail.

Nancy

Nancy McAdams
Office of State Rep. Robert Turner
223 North Capitol
P.O. Box 8953
Madison, WI 53708-8953
Phone: 608-266-0731
Fax: 608-282-3661



WI-FORCE

Wisconsin Firearm Owners, Ranges, Clubs and Educators, Inc.

President

Jeff Nass

N615 Silver Lane

Pulaski WI 54162-8320

Phone 920-687-0505

nass@athenet.net

www.wi-force.org

October 14, 2009

State Representative Hraychuck

State Capitol

P.O. Box 7882

Madison, WI 53707-7882

Dear Representative Hraychuck,

As the state association and responsible firearms owners, Wisconsin Firearms Owners, Ranges Clubs and Educators (WI-FORCE), supports AB 357. We strongly support increasing the penalty of intentionally receiving any stolen firearm. This bill does the right thing by penalizing the criminal not law-abiding citizens.

If you have any questions on this issue or any other firearm related issue, please feel free to contact me.

Sincerely,



Jeff Nass

President

Wisconsin Firearms Owners, Ranges, Clubs and Educators, Inc.





ANN HRAYCHUCK
STATE REPRESENTATIVE

October 15, 2009

**Testimony of Rep. Ann Hraychuck
Before the Assembly Committee on Criminal Justice
AB 357– Possession of Stolen Firearms**

Good Morning, Chairman Turner and committee members. I appreciate having the opportunity to speak with you about Assembly Bill 357.

Assembly Bill 357 would allow a person to be charged with a felony for knowingly possessing a stolen firearm regardless of the value of the firearm. Current law requires the value of the firearm to be more than \$2,500 to charge the person with a felony.

I decided to join Rep. LeMahieu in co-authoring this legislation because stolen firearms are a problem, regardless of the value of the firearm. Many common firearms are valued well below the \$2,500 threshold, so the current law does not really make sense. As a former sheriff, I believe this bill will close an important loophole and help deter the possession of stolen firearms.

This legislation passed the Assembly last session, and had the support of all the major law enforcement groups.

Thank you for your consideration. I would be happy to answer any questions that you may have.





SHEBOYGAN COUNTY SHERIFF

OFFICE OF THE SHERIFF SHEBOYGAN COUNTY

MICHAEL HELMKE
Sheriff

Glenn E. Berg
Inspector

October 15, 2009

AB 357
Folder

State of Wisconsin Assembly Committee on Criminal Justice
328 Northwest
State Capitol

Dear Members of the Committee on Criminal Justice:

Thank you for taking the time today to consider the legislative bill being proposed by Representatives Hraychuck and LeMahieu to change current state law as it concerns Receiving Stolen Property in the form of a firearm. Currently, this particular crime is a Class A misdemeanor, unless the value of the property exceeds \$2,500.00 when it becomes a felony. Under current state law, the mere Theft of a Firearm is a felony, no matter what the value of the firearm is. I believe the legislative intent concerning the Theft of a Firearm recognized that a firearm is no ordinary piece of property and a firearm in the hands of a criminal who would steal a firearm poses a threat to the general public and law abiding citizens. It stands to reason that a criminal, who knowingly receives and possesses a stolen firearm, poses the same threat to the general public and law abiding citizens.

The reason I asked Representative LeMahieu to consider proposing a bill to change the current law included the aforementioned opinion and my own personal experience and concerns I have had investigating burglaries and thefts involving firearms and in what hands these stolen firearms would end up in. These concerns were also shared by many of the burglary and theft victims I have encountered over the years.

At the time I brought my concerns to Representative LeMahieu, I and several of my colleagues had just completed an investigation involving the burglary and theft of five handguns, one rifle and one shotgun. Several suspects were identified and charged in the incident, and all of the firearms were ultimately recovered. However, during the course of the investigation, we only had information that could prove that a number of the suspects could only be charged with Receiving and Possessing Stolen Firearms as a misdemeanor and we were having some difficulty recovering the remaining stolen firearms due to lack of cooperation. It was not until later in the investigation that we received information that these suspects were actually involved as parties to the burglary

and theft and they were charged accordingly. The missing firearms were recovered shortly thereafter. Since that time, the Sheboygan County Sheriff's Department has investigated additional similar cases and the peril of being charged with a felony penalty for knowingly possessing a firearm would likely compel a person to cooperate in the recovery of additional stolen firearms and clearing the burglary cases where these firearms were stolen.

Law abiding citizens who acquire firearms legitimately and in good faith have no concern if this bill is passed into law. The bill does not change the elements of the offense of Receiving Stolen Property as defined in State Statute 943.34, but merely creates a greater penalty if the stolen property is a firearm.

The burden of proof placed upon the state to prove a defendant "knowingly" received or possessed a stolen firearm will remain the same. That burden of proof as outlined in the Wisconsin Jury Instructions for this offense includes three elements that must be satisfied to convict a defendant of this offense. They are as follows:

- 1.) The defendant intentionally received the property.
- 2.) The property was stolen.
- 3.) When the property was received, the defendant knew that it was stolen property.

That same burden of proof rests with law enforcement officers when investigating this offense and must be met before a case is presented to their district attorney.

There has been an increase of firearm related offenses throughout the State of Wisconsin over the last several years, and I believe this bill addresses a hole in current law that needs to be filled in order to help deal with this problem. The bill creates a greater penalty for criminals who knowingly possess a stolen firearm and can provide a deterrent for people who may consider knowingly acquiring a stolen firearm.

It is my sincere hope that this Committee seriously considers this bill and presents the bill to the entire Wisconsin legislature for passage into law.

Sincerely,



Gerald M. Urban
Detective



To: Bob
From: Nancy
Date: February 10, 2010
Re: Attached Bill Co-sponsorship

Bob, this bill is a combination of two bills that have already been referred to the Criminal Justice Committee:

- Rep. Hraychuck's AB 357, which was passed out of Committee on December 10, 2009; (bill status attached) and
- Rep. Gunderson's AB 373, (bill folder attached), which has received a public hearing, but not an executive session.

Tom Kelly from Rep. Staskunas' office stopped by and asked (per his boss), that you give this new bill an public hearing and executive session on the same day, asap, in order to move the bill along. The deadline for signatures is February 12th, so it will probably be referred to our committee within 10 days or so. Before introducing this bill, Rep. Hraychuck enlisted the support of the NRA and they are on board with this legislation.