



2011 SENATE BILL 168

August 11, 2011 – Introduced by Senators S. COGGS and RISSER, cosponsored by Representatives YOUNG, STASKUNAS, BERCEAU and FIELDS. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT** *to amend* 175.35 (2f), 175.35 (2g) (b), 175.35 (2g) (c) (intro.), 175.35 (2i),
2 175.35 (2j), 175.35 (2k) (ar) 2., 175.35 (2k) (b) 2. a., 175.35 (2k) (g), 175.35 (2k)
3 (h) and 175.35 (3); and *to create* 175.35 (2g) (c) 5. and 175.35 (2gm) of the
4 statutes; **relating to:** requiring a firearms restrictions record search for
5 transfers of handguns that do not involve a firearms dealer, requiring the
6 exercise of rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a firearms dealer must request that the Department of Justice (DOJ) perform a firearms restrictions record search on a handgun purchaser before the dealer may complete a sale of a handgun to the purchaser. If DOJ does not identify any firearms restrictions or if DOJ fails to complete the record search within 48 hours after receiving the request, subject to a limited extension, the firearms dealer may complete the sale. A person may be prohibited from possessing a firearm for several reasons, including that he or she is a felon or, in connection with a civil commitment or a domestic abuse injunction, has been ordered not to possess a firearm. A firearms dealer who intentionally violates the firearms restrictions record search requirements or a handgun purchaser who intentionally provides false information to a firearms dealer in connection with a record search is subject to a fine of not less than \$500 and not more than \$10,000 and may be imprisoned for up to nine months.

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This bill requires a firearms restrictions record search for transfers of handguns that do not involve a firearms dealer. A person who is not a firearms dealer may not transfer a handgun to another person who is not a firearms dealer unless all of the following steps are completed: the person who is to receive the handgun submits a request to a firearms dealer for a record search; the firearms dealer requests that DOJ perform the record search; and the firearms dealer notifies the person who is transferring the handgun either that the record search did not reveal any firearms restrictions for the person who is to receive the handgun or that the time period for running a record search expired. The bill allows a firearms dealer to charge the person who is to receive the handgun the \$13 fee charged by DOJ for record searches plus an additional \$5. Any person who intentionally transfers a handgun in violation of the requirements in this bill or any transferee who intentionally provides false information in connection with a firearms restrictions record search is subject to a fine of not less than \$500 and not more than \$10,000 and may be imprisoned for up to nine months.

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* 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.** 175.35 (2f) of the statutes is amended to read:

2 175.35 **(2f)** When a firearms dealer requests that the department of justice
3 provide a firearms restrictions record search under sub. (2g) or (2gm), he or she shall
4 provide truthful information about his or her status as a firearms dealer and shall
5 provide an accurate firearms dealer identification number obtained under sub. (2h).
6 A person may request that the department provide a firearms restrictions record
7 search under sub. (2g) or (2gm) only if he or she is a firearms dealer.

8 **SECTION 2.** 175.35 (2g) (b) of the statutes is amended to read:

9 175.35 **(2g)** (b) The department of justice shall promulgate rules prescribing
10 a notification form for use under sub. subs. (2) and (2gm) requiring the transferee to
11 provide his or her name, date of birth, gender, race and social security number and

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1 other identification necessary to permit an accurate firearms restrictions record
2 search under par. (c) 3. and the required notification under par. (c) 4. The department
3 of justice shall make the forms available at locations throughout the state.

4 **SECTION 3.** 175.35 (2g) (c) (intro.) of the statutes is amended to read:

5 175.35 **(2g)** (c) (intro.) The department of justice shall promulgate rules for
6 firearms restrictions record searches regarding transferees under ~~sub.~~ subs. (2) and
7 (2gm), including procedures for all of the following:

8 **SECTION 4.** 175.35 (2g) (c) 5. of the statutes is created to read:

9 175.35 **(2g)** (c) 5. A firearms dealer to notify a transferor under sub. (2gm) in
10 writing of the results of a firearms restrictions record search regarding a transferee
11 who requests a firearms restrictions record search under sub. (2gm) (a) 1.

12 **SECTION 5.** 175.35 (2gm) of the statutes is created to read:

13 175.35 **(2gm)** (a) A person other than a firearms dealer may not transfer a
14 handgun to another person who is not a firearms dealer unless all of the following
15 have occurred:

16 1. The transferee has done all of the following:

17 a. Provided identification to a firearms dealer as required by rule under sub.
18 (2g) (a).

19 b. Completed a notification form described under sub. (2g) (b).

20 c. Provided the firearms dealer the name, address, and telephone number of
21 the transferor from whom the transferee intends to obtain a handgun.

22 2. The transferor receives written notification from a firearms dealer that the
23 dealer requested the department of justice to conduct a firearms restrictions record
24 search regarding the transferee and either the department issued a unique approval
25 number for the transferee under sub. (2g) (c) 4. b. or the department did not complete

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1 a firearms restrictions record search within the time period under sub. (2) (d) or (2g)
2 (c) 4. c.

3 (b) If the transferee in a transaction to which par. (a) applies requests that a
4 firearms dealer request a firearms restrictions record search regarding the
5 transferee, the firearms dealer shall do all of the following:

6 1. Inspect identification provided by a transferee under par. (a) 1. a. as required
7 by rule under sub. (2g) (a).

8 2. Promptly after receiving a completed notification form under par. (a) 1. b.,
9 convey the information from the completed notification form to the department of
10 justice as required by rule under sub. (2g) (b) and request a firearms restrictions
11 records search.

12 3. Promptly notify the transferor identified under par. (a) 1. c. in writing as
13 provided by rule under sub. (2g) (c) 5. of an approval or denial issued by the
14 department of justice under sub. (2g) (c) 4. or of the expiration of an applicable
15 deadline for completing a firearms restrictions record search under sub. (2) (d) or (2g)
16 (c) 4. c.

17 (c) The department of justice shall conduct a firearms restrictions record search
18 requested by a firearms dealer under par. (b) 2. and notify the dealer of the results
19 of the search as provided by rule under sub. (2g) (c) 4.

20 (d) A firearms dealer may charge a transferee the fee under sub. (2i) plus \$5
21 for requesting the department of justice to conduct a firearms restrictions record
22 search of the transferee under this subsection.

23 **SECTION 6.** 175.35 (2i) of the statutes is amended to read:

24 175.35 **(2i)** The department shall charge a firearms dealer a \$13 fee for each
25 firearms restrictions record search that the firearms dealer requests under sub. (2)

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1 (c) or (2gm) (b) 2. The firearms dealer may collect the fee from the transferee. The
2 department may refuse to conduct firearms restrictions record searches for any
3 firearms dealer who fails to pay any fee under this subsection within 30 days after
4 billing by the department.

5 **SECTION 7.** 175.35 (2j) of the statutes is amended to read:

6 175.35 **(2j)** A firearms dealer shall maintain the original record of all completed
7 notification forms and a record of all confirmation numbers and corresponding
8 approval or nonapproval numbers that he or she receives regarding firearms
9 restrictions record searches under sub. (2g) or (2gm). The firearms dealer shall mail
10 the duplicate copy of each completed notification form to the department of justice.

11 **SECTION 8.** 175.35 (2k) (ar) 2. of the statutes is amended to read:

12 175.35 **(2k)** (ar) 2. Check each duplicate notification form received under sub.
13 (2j) against the information recorded by the department regarding the corresponding
14 request for a firearms restrictions record search under sub. (2g) or (2gm). If the
15 department previously provided a unique approval number regarding the request
16 and nothing in the duplicate completed notification form indicates that the
17 transferee is prohibited from possessing a firearm under s. 941.29, the department
18 shall destroy all records regarding that firearms restrictions record search within 30
19 days after receiving the duplicate form.

20 **SECTION 9.** 175.35 (2k) (b) 2. a. of the statutes is amended to read:

21 175.35 **(2k)** (b) 2. a. Except as provided in subd. 2. b., a log of dates of requests
22 for firearms restrictions record searches under sub. (2g) or (2gm) together with
23 confirmation numbers, unique approval and nonapproval numbers and firearms
24 dealer identification numbers corresponding to those dates.

25 **SECTION 10.** 175.35 (2k) (g) of the statutes is amended to read:

