



2023 ASSEMBLY BILL 468

October 5, 2023 - Introduced by Representatives BODDEN, BEHNKE, ARMSTRONG, BINSFELD, BRANDTJEN, CALLAHAN, DITTRICH, EDMING, GOEBEN, GREEN, GUSTAFSON, MAGNAFICI, MURPHY, O'CONNOR, RETTINGER, ROZAR, SCHMIDT, SCHUTT and WICHGERS, cosponsored by Senators STAFSHOLT, MARKLEIN, NASS, STROEBEL, TOMCZYK and WANGGAARD. Referred to Committee on Consumer Protection.

1 **AN ACT to amend** 165.60 and 175.35 (2k) (ar) 1.; and **to create** 175.31 and 224.60
2 of the statutes; **relating to:** prohibiting firearms merchant category codes in
3 payment card transactions, prohibiting government lists of firearm owners,
4 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a financial institution, as part of a payment card transaction, from requiring the use of a merchant category code that identifies the merchant as a firearms retailer. The bill also provides that the Department of Justice may not maintain a list of firearm purchasers based on information from background checks that DOJ performs and that no governmental entity may maintain a list of firearm owners. The bill requires the attorney general to enforce the prohibitions created in this bill.

Firearms codes in payment card transactions

The bill prohibits a financial institution or its agent from requiring the use of a firearms code in a way that distinguishes a firearms retailer from general merchandise retailers or sporting goods retailers. The bill defines a “financial institution” as an entity involved in facilitating or processing a payment card transaction, including a bank, acquirer, payment card network, or payment card issuer. The bill defines “firearms code” as the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms retailers. In addition, with limited exceptions, a financial institution may

ASSEMBLY BILL 468

not discriminate against a firearms retailer by declining a lawful payment card transaction based solely on the assignment or nonassignment of a firearms code.

Prohibitions on government lists of firearm owners

Current law provides that a federally licensed firearms dealer may not transfer a handgun after a sale until the dealer has requested DOJ to perform a background check on the prospective transferee to determine if he or she is prohibited from possessing a firearm under state or federal law. Unless the background check indicates that the prospective transferee is prohibited from possessing a firearm, current law requires DOJ to deny access to records regarding background checks and to destroy all such records within 30 days after the background check is complete. This bill further requires DOJ to ensure that such records are not stored, maintained, or formatted into a list that identifies persons who have purchased a firearm.

The bill also prohibits governmental entities from intentionally creating, storing, or maintaining a list of individuals who own firearms. The bill provides an exception for criminal investigations or prosecutions or for determining compliance with court orders or injunctions.

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

1 **SECTION 1.** 165.60 of the statutes is amended to read:

2 **165.60 Law enforcement.** The department of justice shall enforce ss. 175.31
3 and 224.60. The department of justice is authorized to enforce ss. 101.123 (2), (2m),
4 and (8), 175.60 (17) (e), 944.30 (1m), 944.31, 944.33, 944.34, 945.02 (2), 945.03 (1m),
5 945.04 (1m), and 948.081 and ch. 108 and, with respect to a false statement
6 submitted or made under s. 175.60 (7) (b) or (15) (b) 2. or as described under s. 175.60
7 (17) (c), to enforce s. 946.32, is authorized to assist the department of workforce
8 development in the investigation and prosecution of suspected fraudulent activity
9 related to worker's compensation as provided in s. 102.125, and is invested with the
10 powers conferred by law upon sheriffs and municipal police officers in the
11 performance of those duties. This section does not deprive or relieve sheriffs,
12 constables, and other local police officers of the power and duty to enforce those
13 sections, and those officers shall likewise enforce those sections.

ASSEMBLY BILL 468

1 **SECTION 2.** 175.31 of the statutes is created to read:

2 **175.31 Lists of owners of firearms.** Except for purposes of criminal
3 investigations or prosecutions or of determining compliance with court orders or
4 injunctions, no state agency, political subdivision, or special purpose district may
5 intentionally create, store, or maintain a list of individuals who own firearms.

6 **SECTION 3.** 175.35 (2k) (ar) 1. of the statutes is amended to read:

7 175.35 **(2k)** (ar) 1. Deny access to any record kept under this section and ensure
8 that, before records are destroyed under subd. 2., such records are not stored,
9 maintained, or formatted into a list that identifies persons who have purchased a
10 firearm.

11 **SECTION 4.** 224.60 of the statutes is created to read:

12 **224.60 Prohibited merchant category codes in payment card**
13 **transactions. (1)** In this section:

14 (a) “Customer” means any resident of this state engaged in a payment card
15 transaction that a financial institution facilitates or processes.

16 (b) “Financial institution” means an entity involved in facilitating or
17 processing a payment card transaction, including a bank, acquirer, payment card
18 network, or payment card issuer.

19 (c) “Firearms code” means the merchant category code 5723, approved in
20 September 2022 by the International Organization for Standardization, for firearms
21 retailers.

22 (d) “Firearms retailer” means any person physically located in this state
23 engaged in the lawful business of selling or trading firearms, firearm components,
24 ammunition to be used in firearms, or firearm accessories.

