



2003 ASSEMBLY BILL 315

May 8, 2003 - Introduced by Representatives GUNDERSON, SUDER, PETTIS, ALBERS, BERCEAU, FREESE, GIELOW, HAHN, HINES, KRAWCZYK, LADWIG, MCCORMICK, NASS, OLSEN, OTT, SERATTI, TOWNSEND, VAN ROY, VRAKAS and STONE, cosponsored by Senators STEPP, SCHULTZ and COWLES. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber and amend* 175.35 (2g) (b) and 175.35 (3); and *to create*
2 175.35 (2g) (b) 1. to 9., 175.35 (2g) (bd), 175.35 (3) (b) and 175.35 (4) of the
3 statutes; **relating to:** providing information to a firearms dealer when
4 purchasing a handgun, authorizing the Department of Justice to prosecute
5 violations of certain laws regulating firearms, and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, a federally licensed firearms dealer may not transfer a handgun to a person following a sale until the person has provided identification to the firearms dealer and has completed a notification form prescribed by the Department of Justice (DOJ) that requires the person to provide his or her name, date of birth, gender, race, and social security number and other identifying information. The firearms dealer must then convey the information from the completed notification form to DOJ so that DOJ can conduct a background check to determine whether the person is prohibited from possessing a firearm. A person completing the notification form must provide truthful information on the form. If a person intentionally provides false information, he or she must be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than nine months.

The bill provides that the notification form prescribed by DOJ must require the person completing the notification form to give a "yes" or "no" answer to several questions, including questions asking the following: 1) whether the person is

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purchasing the firearm with the purpose or intent of transferring it to a person who is prohibited from possessing a firearm under state or federal law; 2) whether the person has been convicted of a felony, found not guilty of or not responsible for a felony by reason of mental disease or defect, or adjudicated delinquent for a felony; and 3) whether the person is subject to certain court orders that prohibit the person from possessing a firearm. Under the bill, the notification form may not require the person to answer questions other than those specified in the bill. In addition, the questions must appear on the notification form exactly as they appear in the bill.

The bill establishes separate penalty provisions that apply to a person who intentionally provides false information in response to the first of the questions described in the preceding paragraph. Under the bill, the person must be fined not less than \$500 nor more than \$10,000 and may be imprisoned for not more than six years. The bill also authorizes DOJ to prosecute such a violation.

Finally, the bill provides that the form may not require the person to answer any question or statement that is the same as or substantially similar to the following statement: “I am the actual purchaser of this firearm. I am not purchasing the firearm at the request of any other person or on behalf of any other person. I am not purchasing this firearm with the purpose or intent of reselling the firearm to any other person.”

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.** 175.35 (2g) (b) of the statutes is renumbered 175.35 (2g) (b) (intro.)
2 and amended to read:
3 175.35 **(2g)** (b) (intro.) The department of justice shall promulgate rules
4 prescribing a notification form for use under sub. (2) requiring. The form shall
5 require the transferee to provide his or her name, date of birth, gender, race, and
6 social security number and other identification necessary to permit an accurate
7 firearms restrictions record search under par. (c) 3. and the required notification
8 under par. (c) 4. The form shall also include a section that, using exactly the wording

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1 specified in subds. 1. to 9., asks the transferee all of the following questions and only
2 the following questions and that requires the transferee to give a “yes” or “no” answer
3 to each question in a space next to the question on the form:

4 (bm) The department of justice shall make the forms prescribed under par. (b)
5 available at locations throughout the state.

6 **SECTION 2.** 175.35 (2g) (b) 1. to 9. of the statutes are created to read:

7 175.35 (2g) (b) 1. Are you purchasing this firearm with the purpose or intent
8 of transferring it to a person who is presently prohibited from possessing a firearm
9 under state or federal law?

10 2. Have you ever been convicted of a felony in this state or a crime elsewhere
11 that would be a felony if committed in Wisconsin? (A felony is defined as a crime
12 punishable by one year or more in prison.)

13 3. Have you ever been found not guilty of a felony in Wisconsin by reason of
14 mental disease or defect?

15 4. Have you ever been found not guilty of or not responsible for a crime
16 elsewhere that would be a felony if committed in Wisconsin by reason of insanity or
17 mental disease, defect, or illness?

18 5. Are you subject to a court order under the Wisconsin Mental Health Act (ch.
19 51, stats.) that prohibits you from possessing a handgun?

20 6. Are you subject to a court order under the harassment injunction law (s.
21 813.125, Wis. Stats.) that prohibits you from possessing a firearm?

22 7. Are you subject to a domestic abuse injunction or domestic abuse tribal
23 injunction (s. 813.12, Wis. Stats.) or a child abuse injunction (s. 813.122, Wis. Stats.)?

24 NOTE: This question applies to proceedings that were commenced on or after
25 April 1, 1996.

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1 8. Have you ever been adjudicated delinquent as a juvenile for an act committed
2 on or after April 21, 1994, that if committed by an adult in Wisconsin would be a
3 felony?

4 9. If you answered "yes" to question number 8, have you been exempted from
5 the firearm possession prohibition by order of a court pursuant to s. 941.29 (8), Wis.
6 Stats.? If you answered "no" to question number 8, leave the space next to this
7 question blank.

8 **SECTION 3.** 175.35 (2g) (bd) of the statutes is created to read:

9 175.35 **(2g)** (bd) The form prescribed under par. (b) may not require the
10 transferee to give a "yes" or "no" answer to any question or statement that is the same
11 as or substantially similar to the following statement: "I am the actual purchaser
12 of this firearm. I am not purchasing the firearm at the request of any other person
13 or on behalf of any other person. I am not purchasing this firearm with the purpose
14 or intent of reselling the firearm to any other person."

15 **SECTION 4.** 175.35 (3) of the statutes is renumbered 175.35 (3) (a) and amended
16 to read:

17 175.35 **(3)** (a) Any person who intentionally violates sub. (2), ~~(2e)~~, (2f), or (2j)
18 shall be fined not less than \$500 nor more than \$10,000 and may be imprisoned for
19 not more than 9 months.

20 **SECTION 5.** 175.35 (3) (b) of the statutes is created to read:

21 175.35 **(3)** (b) 1. Except as provided in subd. 2., a person who intentionally
22 violates sub. (2e) shall be fined not less than \$500 nor more than \$10,000 and may
23 be imprisoned for not more than 9 months.

