



2009 ASSEMBLY BILL 221

April 17, 2009 - Introduced by Representatives YOUNG, BERCEAU, TURNER, RICHARDS, GRIGSBY, A. WILLIAMS, COLON, KESSLER, SINICKI and PASCH, cosponsored by Senators COGGS and TAYLOR. Referred to Committee on Criminal Justice.

1 **AN ACT** *to create* 175.36 and 941.285 of the statutes; **relating to:** creating a
2 microstamping requirement for certain handguns, certification of compliance
3 with the microstamping requirement, requiring the exercise of rule-making
4 authority, and providing penalties.

Analysis by the Legislative Reference Bureau

This bill prohibits a gun manufacturer or a firearms dealer from transferring a semiautomatic handgun that does not produce an identifying code (microstamp) on each cartridge case it expends if both of the following apply: 1) the handgun was manufactured on or after January 1, 2011; and 2) the handgun has not previously been transferred to a person that is not a manufacturer or dealer (new handgun). This bill also prohibits a manufacturer in this state from manufacturing, on or after January 1, 2011, a semiautomatic handgun that does not produce a microstamp. A person that violates one of these prohibitions is subject to a fine of up to \$1,000 or imprisonment for up to nine months, or both.

The bill also requires manufacturers and dealers who transfer a handgun that is required to produce microstamps to certify that the handgun, if it is a new handgun, produces microstamps and that the manufacturer of the handgun will disclose to a law enforcement agency that has collected a microstamp from an expended cartridge during a criminal investigation the make, model, and serial number of the handgun that expended the cartridge.

This bill prohibits a person from modifying a semiautomatic handgun that produces microstamps if the person intends to prevent law enforcement from being

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able to access the microstamp on an expended cartridge. A person who violates this prohibition is guilty of a misdemeanor and is subject to a fine of up to \$1,000 or imprisonment for not more than 90 days, or both. A person who transfers a semiautomatic handgun that he or she knows has been modified in violation of this prohibition is subject to a fine of up to \$1,000 or imprisonment for not more than nine months, 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.** 175.36 of the statutes is created to read:

2 **175.36 Semiautomatic handgun identification.** (1) In this section:

3 (a) “Department” means the department of justice.

4 (b) “Firearms dealer” has the meaning given in s. 175.35 (1) (ar).

5 (c) “Handgun” has the meaning given in s. 175.35 (1) (b) except that “handgun”
6 does not include a revolver.

7 (cm) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b) and
8 includes a district attorney’s office.

9 (d) “Manufacturer” means a person who possesses a federal license to
10 manufacture firearms or ammunition for sale or distribution.

11 (e) “Microstamp” means a unique code on at least 2 locations on each expended
12 cartridge case that identifies the make, model, and serial number of the handgun
13 that expended the cartridge.

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1 (f) "Semiautomatic" means capable of using a portion of the energy of a firing
2 cartridge to extract the fired cartridge case and deliver another cartridge to the firing
3 chamber, if a separate pull of the trigger is required to fire each cartridge.

4 (g) "Transfer" has the meaning given in s. 939.22 (40).

5 **(2)** (a) No manufacturer or firearms dealer may transfer a semiautomatic
6 handgun manufactured on or after January 1, 2011, to a firearms dealer in this state
7 unless the semiautomatic handgun produces microstamps.

8 (b) No manufacturer may manufacture a semiautomatic handgun in this state
9 on or after January 1, 2011, unless the semiautomatic handgun produces
10 microstamps.

11 (c) 1. If a manufacturer or a firearms dealer transfers to a firearms dealer a
12 semiautomatic handgun that was manufactured on or after January 1, 2011, the
13 firearms dealer that received the semiautomatic handgun may not transfer the
14 semiautomatic handgun in this state unless the manufacturer or the firearms dealer
15 that transferred the semiautomatic handgun has certified under sub. (3) (a) that the
16 semiautomatic handgun produces microstamps.

17 2. If a person that is not a manufacturer or a firearms dealer transfers to a
18 firearms dealer a semiautomatic handgun that was manufactured on or after
19 January 1, 2011, and that was designed to produce microstamps, the firearms dealer
20 may, unless the firearms dealer knows that the transfer would violate sub. (5),
21 transfer the semiautomatic handgun in this state without certifying under sub. (3)
22 (a) that the semiautomatic handgun produces microstamps.

23 **(3)** (a) A manufacturer or a firearms dealer that transfers a semiautomatic
24 handgun that was manufactured on or after January 1, 2011, to a firearms dealer in
25 this state shall certify, in the manner specified in the rules developed under sub. (6)

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1 and subject to prosecution for false swearing under s. 946.32, all of the following
2 conditions:

3 1. Except as provided in par. (b), that the semiautomatic handgun produces
4 microstamps.

5 2. That the manufacturer shall disclose to a law enforcement agency, when
6 presented with a microstamp code from an expended cartridge the law enforcement
7 agency collected during a criminal investigation, the make, model, and serial
8 number of the semiautomatic handgun that expended the cartridge.

9 (b) Paragraph (a) 1. does not apply to a firearms dealer that transfers a
10 semiautomatic handgun to another firearms dealer in this state if the semiautomatic
11 handgun was previously transferred to a person that is not a firearms dealer.

12 (4) (a) If a resident of this state acquired, while not a resident of this state
13 through legal means outside of this state, a semiautomatic handgun that was
14 manufactured on or after January 1, 2011, and that does not produce microstamps,
15 he or she may transfer the semiautomatic handgun only to a firearms dealer.

16 (b) A firearms dealer that is transferred a semiautomatic handgun under par.
17 (a) may not transfer the semiautomatic handgun to any person in this state.

18 (5) No person may transfer a semiautomatic handgun that the person knows
19 has been modified in violation of s. 941.285 (2).

20 (6) The department shall promulgate rules that do all of the following:

21 (a) Identify the conditions necessary for a manufacturer to disclose to a law
22 enforcement agency, when presented with a microstamp code from an expended
23 cartridge the law enforcement agency collected during a criminal investigation, the
24 make, model, and serial number of a semiautomatic handgun that expended the
25 cartridge.

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1 (b) Specify the manner in which a manufacturer must certify under sub. (3) the
2 conditions under sub. (3) (a) 1. and 2.

3 (7) Any person who violates sub. (2), (4), or (5) may be fined not more than
4 \$1,000 or may be imprisoned for not more than 9 months, or both.

5 **SECTION 2.** 941.285 of the statutes is created to read:

6 **941.285 Modifying a semiautomatic handgun.** (1) In this section:

7 (a) "Handgun" has the meaning given in s. 175.36 (1) (c).

8 (b) "Microstamp" has the meaning given in s. 175.36 (1) (e).

9 (c) "Semiautomatic" has the meaning given in s. 175.36 (1) (f).

10 (2) Any person who modifies a semiautomatic handgun, or portion of a
11 semiautomatic handgun, that produces microstamps with the intention of
12 preventing law enforcement from being able to access the microstamp that identifies
13 that semiautomatic handgun is guilty of a Class B misdemeanor.

14 **SECTION 3. Initial applicability.**

15 (1) The treatment of section 941.285 of the statutes first applies to acts
16 committed on the effective date of this subsection.

17 **SECTION 4. Effective date.**

18 (1) This act takes effect on January 1, 2011.

19 (END)