

2011 DRAFTING REQUEST

Assembly Amendment (AA-SB93)

Received: **06/21/2011**

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB:

For: **Donna Seidel (608) 266-0654**

By/Representing: **Chris McKinny**

May Contact:

Drafter: **chanaman**

Subject: **Criminal Law - guns and weapons**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Seidel@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

First package; SB131 and prohibit habitual criminals

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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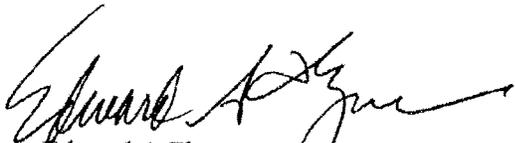
circumstance - be permitted to carry a firearm. Under current proposed legislation, they would continue to be guilty of a misdemeanor offense for doing so. The ideology that only adjudicated felons should be subject to felony sanctions for unlawfully carrying a weapon ignores the simple reality that dangerous, violent, career criminals are very often not yet felons.

It makes sense that habitual criminals should be subject to more strict penalties than law-abiding citizens. This notion makes so much sense that the State of Wisconsin has already codified "habitual criminality" category under s. 939.62(2). This is not a new category of offender under Wisconsin law. Using the existing habitual criminality statute is a very clean, very reasonable means by which we can reasonably prevent our career criminals from carrying weapons with impunity.

We respectfully request an amendment to Senate Bill 131 that would make it a felony for those deemed a habitual criminal offender to carry a concealed weapon. To achieve this, we recommend a simple modification of the language under section 4 of your bill to read that "A person who violates sub. (2), who is ineligible to possess a firearm as indicated by a search in the national instant criminal background check system or who is deemed a habitual criminal offender under s. 939.62(2) is guilty of a Class H felony."

We appreciate your consideration of our simple, common-sense amendment to Senate Bill 131, and we look forward to the implementation of both a permitting and penalty bill that will ensure the rights of law-abiding citizens, deter would-be offenders and appropriately punish career criminals.

Sincerely,



Edward A Flynn
Milwaukee Chief of Police



John Chisholm
Milwaukee County District Attorney



State of Wisconsin
2011 - 2012 LEGISLATURE



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CMH:cjs&jlcrs

91378/1

/own

Now

ASSEMBLY AMENDMENT ,
TO 2011 SENATE BILL 93

1 At the locations indicated, amend the bill, as shown by senate substitute
2 amendment 2, as follows:

3 **1.** Page 2, line 11: after "officers;" insert "purchasing a firearm for a person who
4 is prohibited from possessing a firearm;".

5 **2.** Page 19, line 13: after that line insert:
6 "(bi) "Firearms-related misdemeanor" means a crime under s. 941.20 (1),
7 941.235 (1), or 941.237 (2), or s. 941.23, 2009 stats."

8 **3.** Page 23, line 13: after "941.29" insert "or has been convicted of a
9 firearms-related misdemeanor".

10 **4.** Page 26, line 12: after "(16)" insert "(a)".

11 **5.** Page 28, line 7: after "(3);" insert "whether the applicant has been convicted
12 of a firearms-related misdemeanor;".

1 **6.** Page 29, line 20: after “felony” insert “, a firearms-related misdemeanor.”.

2 **7.** Page 38, line 24: after that line insert:

3 “(c) A licensee may not carry a concealed weapon, a weapon that is not
4 concealed, or a firearm that is not a weapon if the licensee’s alcohol concentration
5 exceeds 0.20 or if the licensee is under the influence of an intoxicant or other drug.”.

6 **8.** Page 43, line 6: after “felony” insert “or a firearms-related misdemeanor,
7 as defined in s. 175.60 (1) (bi).”.

8 **9.** Page 43, line 19: after that line insert:

9 “**SECTION 49g.** 939.6185 of the statutes is created to read:

10 **939.6185 Mandatory minimum sentence for illegally carrying a**
11 **concealed weapon if previously convicted of violent felony.** If a person is
12 convicted of a violation of s. 941.23 (2d) and the person has been previously convicted
13 of a violent offense, as defined in s. 301.048 (2) (bm), the court shall impose a
14 bifurcated sentence under s. 973.01. The term of confinement in prison portion of the
15 bifurcated sentence shall be at least 3 years. Otherwise the penalties for the crime
16 apply, subject to any applicable penalty enhancement.

17 **SECTION 49h.** 939.632 (1) (e) 3. of the statutes is amended to read:

18 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
19 (2), 940.42, 940.44, 941.20 (1), ~~941.23~~⁽²⁾ 941.235, 941.24 or 941.38 (3).”.

20 **10.** Page 43, line 22: delete “Any” and substitute “Any Except as provided in
21 sub. (2d), any”.

22 **11.** Page 43, line 24: delete that line and substitute “of a Class –A
23 misdemeanor. Notwithstanding I felony.”.

24 **12.** Page 46, line 12: after that line insert:

or who is a repeater as defined in s. 939.62 (2)

1 "SECTION 55g. 941.23 (2d) of the statutes is created to read:

2 941.23 (2d) A person who violates sub. (2), who is prohibited from possessing
3 a firearm under s. 941.29 is guilty of a Class H felony."

4 **13.** Page 49, line 4: after that line insert:

5 "SECTION 64g. 941.2905 of the statutes is created to read:

6 **941.2905 Straw purchase of firearm. (1)** Whoever purchases a firearm for
7 a person knowing that the person is prohibited from possessing a firearm under s.
8 941.29 is guilty of a Class G felony.

9 (2) A person who possesses a firearm in violation of s. 941.29 (2) is guilty of a
10 Class F felony if he or she knows that another person purchased the firearm for the
11 person."

12 **14.** Page 58, line 12: delete "941.23," and substitute "941.23,".

13 (END)