



2011 SENATE BILL 131

June 17, 2011 – Introduced by Senators DARLING, GALLOWAY, WANGGAARD, OLSEN and CARPENTER, cosponsored by Representatives BIES, PETERSEN, SPANBAUER, A. OTT, MURSAU, BROOKS, STASKUNAS and STROEBEL. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT to amend** 939.632 (1) (e) 3. and 941.23 (2) (intro.); and **to create**
2 939.6185, 941.23 (2d) and 941.2905 of the statutes; **relating to:** carrying a
3 concealed weapon if prohibited from possessing a firearm, purchasing a firearm
4 for a person who is prohibited from possessing a firearm, and providing a
5 penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person violates the law by going armed with a concealed and dangerous weapon, he or she is guilty of a Class A misdemeanor. Under this bill, a person would be guilty of a felony if he or she violated the law by going armed with a concealed and dangerous weapon if he or she is ineligible to possess a firearm as indicated by a search in the National Instant Criminal Background Check System. In addition, if the person has been previously convicted of a violent offence, the person must serve at least three years of confinement in prison.

Current law prohibits certain persons from possessing a firearm including a person who is convicted, adjudicated delinquent, or found not guilty by reason of mental disease or defect for a crime that is a felony; a person who is subject to a domestic abuse or child abuse injunction and, in some cases, a harassment injunction; and a person who is prohibited from possessing a firearm in connection with a court-ordered mental health commitment. A person who violates the prohibition against possessing a firearm is guilty of a Class G felony. Any person who knowingly furnishes a firearm to a person who is prohibited from possessing a

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firearm is also guilty of a Class G felony. This bill creates an additional prohibition against purchasing a firearm for a person knowing that the person is prohibited from possessing a firearm, and makes it a Class G felony as well. The bill also makes it a Class F felony for a person who is prohibited from possessing a firearm to possess the firearm if he or she knows it was purchased for him or her.

This bill is contingent upon the enactment of another bill creating the license to carry a concealed weapon.

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.** 939.6185 of the statutes is created to read:

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

9 **SECTION 2.** 939.632 (1) (e) 3. of the statutes is amended to read:

10 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32
11 (2), 940.42, 940.44, 941.20 (1), 941.23 (2), 941.235, 941.24 or 941.38 (3).

12 **SECTION 3.** 941.23 (2) (intro.) of the statutes, as affected by 2011 Wisconsin Act
13 (Senate Bill 93), is amended to read:

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1 941.23 (2) (intro.) ~~Any~~ Except as provided in sub. (2d), any person, other than
2 one of the following, who carries a concealed and dangerous weapon is guilty of a
3 Class A misdemeanor:

4 **SECTION 4.** 941.23 (2d) of the statutes is created to read:

5 941.23 (2d) A person who violates sub. (2), who is ineligible to possess a firearm
6 as indicated by a search in the national instant criminal background check system,
7 is guilty of a Class H felony.

8 **SECTION 5.** 941.2905 of the statutes is created to read:

9 **941.2905 Straw purchase of firearm. (1)** Whoever purchases a firearm for
10 a person knowing that the person is prohibited from possessing a firearm under s.
11 941.29 is guilty of a Class G felony.

12 **(2)** A person who possesses a firearm in violation of s. 941.29 (2) is guilty of a
13 Class F felony if he or she knows that another person purchased the firearm for the
14 person.

15 **SECTION 6. Nonstatutory provisions.**

16 (1) If 2011 Wisconsin Act (Senate Bill 93) is enacted into law, and if sections
17 175.60 (3) (a) to (e) and 941.23 of the statutes are affected by that act in the manner
18 shown in Senate Substitute Amendment (LRBs0135/3) to 2011 Wisconsin Act
19 (Senate Bill 93), then the treatment of sections 939.6185, 939.632 (1) (e) 3., 941.23
20 (2) (intro.) and (2d), and 942.2905 of the statutes by this act take effect on the effective
21 date of this subsection.

22 (2) If 2011 Wisconsin Act (Senate Bill 93) is not enacted into law, or if sections
23 175.60 (3) (a) to (e) and 941.23 of the statutes are not affected by that act in the
24 manner shown in Senate Substitute Amendment (LRBs0135/3) to 2011 Wisconsin

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1 Act (Senate Bill 93), then the treatment of sections 939.6185, 939.632 (1) (e) 3.,
2 941.23 (2) (intro.) and (2d), and 941.2905 of the statutes by this act are void.

3 **SECTION 7. Effective date.**

4 (1) SECTION 6 of this act takes effect on the first day of the 4th month beginning
5 after publication of 2011 Wisconsin Act ... (Senate Bill 93).

6 (END)