

CHAPTER 941

CRIMES AGAINST PUBLIC HEALTH AND SAFETY

VEHICLES

941.01 Negligent operation of vehicle.

FIRE

941.10 Negligent handling of burning material.

941.11 Unsafe burning of buildings.

941.12 Interfering with fire fighting.

941.13 False alarms.

WEAPONS

941.20 Endangering safety by use of dangerous weapon.

941.21 Disarming a peace officer.

941.23 Carrying concealed weapon.

941.235 Carrying firearm in public building.

941.24 Possession of switchblade knife.

941.25 Manufacturer to register machine guns.

941.26 Machine guns and other weapons; use in certain cases; penalty.

941.27 Machine guns.

941.28 Possession of short-barreled shotgun or short-barreled rifle.

941.29 Possession of a firearm.

941.295 Possession of electric weapon.

OTHER DANGEROUS INSTRUMENTALITIES AND PRACTICES

941.30 Recklessly endangering safety.

941.31 Possession of explosives.

941.32 Administering dangerous or stupefying drug.

941.325 Placing foreign objects in edibles.

941.327 Tampering with household products.

941.34 Fluoroscopic shoe-fitting machines.

941.35 Emergency telephone calls.

941.36 Fraudulent tapping of electric wires or gas or water meters or pipes.

941.37 Obstructing emergency or rescue personnel.

VEHICLES

941.01 Negligent operation of vehicle. (1) Whoever endangers another's safety by a high degree of negligence in the operation of a vehicle, not upon a highway as defined in s. 340.01, is guilty of a Class A misdemeanor.

(2) Upon conviction under sub. (1), no revocation or suspension of an operator's license may follow.

History: 1977 c. 173; 1987 a. 399.

FIRE

941.10 Negligent handling of burning material. (1) Whoever handles burning material in a highly negligent manner is guilty of a Class A misdemeanor.

(2) Burning material is handled in a highly negligent manner if handled with criminal negligence under s. 939.25 or under circumstances in which the person should realize that a substantial and unreasonable risk of serious damage to another's property is created.

History: 1977 c. 173; 1987 a. 399.

941.11 Unsafe burning of buildings. Whoever does either of the following is guilty of a Class D felony:

(1) Intentionally burns his own building under circumstances in which he should realize he is creating an unreasonable risk of death or great bodily harm to another or serious damage to another's property; or

(2) Intentionally burns a building of one who has consented to the destruction thereof but does so under circumstances in which he should realize he is creating an unreasonable risk of death or great bodily harm to another or serious damage to a third person's property.

History: 1977 c. 173.

941.12 Interfering with fire fighting. (1) Whoever intentionally interferes with the proper functioning of a fire alarm system or the lawful efforts of fire fighters to extinguish a fire is guilty of a Class E felony.

(2) Whoever interferes with, tampers with or removes, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment, is guilty of a Class A misdemeanor.

(3) Whoever interferes with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate municipal authority is guilty of a Class C misdemeanor. Every day during which the interference continues constitutes a separate offense.

History: 1977 c. 173.

941.13 False alarms. Whoever intentionally gives a false alarm to any public officer or employe, whether by means of a fire alarm system or otherwise, is guilty of a Class A misdemeanor.

History: 1977 c. 173.

WEAPONS

941.20 Endangering safety by use of dangerous weapon.

(1) Whoever does any of the following is guilty of a Class A misdemeanor:

(a) Endangers another's safety by the negligent operation or handling of a dangerous weapon; or

(b) Operates or goes armed with a firearm while he is under the influence of an intoxicant; or

(c) Intentionally points a firearm at or toward another.

(d) While on the lands of another discharges a firearm within 100 yards of any building devoted to human occupancy situated on and attached to the lands of another without the express permission of the owner or occupant of the building. "Building" as used in this paragraph includes any house trailer or mobile home but does not include any tent, bus, truck, vehicle or similar portable unit.

(2) Whoever does any of the following is guilty of a Class E felony:

(a) Intentionally discharges a firearm into vehicle or building under circumstances in which he should realize there might be a human being present therein; or

(b) Sets a spring gun.

History: 1977 c. 173; 1987 a. 399; 1989 a. 131.

Judicial Council Note, 1988: The mental element of the offense under sub. (1) (a) is changed from reckless conduct to criminal negligence. See s. 939.25. If the defendant acts recklessly, the conduct is prohibited by s. 941.30. [Bill 191-S]

Pointing a firearm is not a lesser included offense of armed robbery and a defendant can be convicted of both. State v. Smith, 55 W (2d) 304, 198 NW (2d) 630.

See note to 939.66, citing State v. Carrington, 134 W (2d) 260, 397 NW (2d) 484 (1986).

941.21 Disarming a peace officer. Whoever intentionally disarms a peace officer who is acting in his or her official capacity by taking a firearm from the officer without his or her consent is guilty of a Class E felony. This section applies to any firearm which the officer is carrying or which is in an area within the officer's immediate presence.

History: 1983 a. 262.

941.23 CRIMES—PUBLIC HEALTH AND SAFETY

89-90 Wis. Stats. 4670

941.23 Carrying concealed weapon. Any person except a peace officer who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor.

History: 1977 c. 173; 1979 c. 115, 221.

The burden is on the defendant to prove that he is a peace officer so as to come within the exception. *State v. Williamson*, 58 W (2d) 514, 206 NW (2d) 613.

Totality of circumstances justified search for concealed weapon. *Penister v. State*, 74 W (2d) 94, 246 NW (2d) 115.

Defendant was properly convicted under this section for driving vehicle with gun locked in glove compartment. *State v. Fry*, 131 W (2d) 153, 388 NW (2d) 565 (1986).

Judges are not peace officers authorized to carry concealed weapons. 69 Atty Gen. 66.

941.235 Carrying firearm in public building. (1) Any person who goes armed with a firearm in any building owned or leased by the state or any political subdivision of the state is guilty of a Class B misdemeanor.

(2) This section does not apply to peace officers or armed forces or military personnel who go armed in the line of duty or to any person duly authorized by the chief of police of any city or the sheriff of any county to possess a firearm in any building under sub. (1).

History: 1979 c. 221.

941.24 Possession of switchblade knife. (1) Whoever manufactures, sells or offers to sell, transports, purchases, possesses or goes armed with any knife having a blade which opens by pressing a button, spring or other device in the handle or by gravity or by a thrust or movement is guilty of a Class A misdemeanor.

(2) Within 30 days after April 16, 1959, such knives shall be surrendered to any peace officer.

History: 1977 c. 173.

941.25 Manufacturer to register machine guns. Every manufacturer shall keep a register of all machine guns manufactured or handled by him or her. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt, of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received; and the purpose for which it was acquired by the person to whom the machine gun was sold, loaned, given or delivered, or from whom received. Upon demand every manufacturer shall permit any marshal, sheriff or police officer to inspect his or her entire stock of machine guns, parts, and supplies therefor, and shall produce the register required under this section for inspection. Whoever violates any provision of this section is subject to a Class B forfeiture.

History: 1977 c. 173.

941.26 Machine guns and other weapons; use in certain cases; penalty. (1) No person may sell, possess, use or transport any machine gun or other full automatic firearm. No person may sell, possess, use or transport any tear gas bomb, hand grenade, projectile or shell or any other container of any kind or character into which tear gas or any similar substance is used or placed for use to cause bodily discomfort, panic, or damage to property.

(2) Any person violating any of the provisions of this section is guilty of a Class E felony.

(3) The provisions of this section shall not apply to the sale, possession, use or transportation of any such weapons or containers to or by any armed forces or national guard personnel in line of duty, any civil enforcement officer of the state or of any city or county, or any person duly authorized by the chief of police of any city or the sheriff of any county to sell, possess, use or transport such weapons or containers.

The restriction on transportation contained in this section shall not apply to common carriers.

History: 1977 c. 173; 1987 a. 234.

941.27 Machine guns. (1) DEFINITION. In ss. 941.25 and 941.26, "machine gun" includes a weapon of any description by whatever name known which was manufactured to discharge more than 2 shots or bullets by a single function of the firing device.

(2) EXCEPTIONS. Sections 941.25 and 941.26 shall not prohibit or interfere with the manufacture for, and sale of, machine guns to the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose; the possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament or keepsake; or the possession of a machine gun other than one adapted to use pistol cartridges for a purpose manifestly not aggressive or offensive.

History: 1977 c. 173.

941.28 Possession of short-barreled shotgun or short-barreled rifle. (1) In this section:

(a) "Rifle" means a firearm designed or redesigned, made or remade, and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of a propellant in a metallic cartridge to fire through a rifled barrel a single projectile for each pull of the trigger.

(b) "Short-barreled rifle" means a rifle having one or more barrels having a length of less than 16 inches measured from closed breech or bolt face to muzzle or a rifle having an overall length of less than 26 inches.

(c) "Short-barreled shotgun" means a shotgun having one or more barrels having a length of less than 18 inches measured from closed breech or bolt face to muzzle or a shotgun having an overall length of less than 26 inches.

(d) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder or hip and designed or redesigned and made or remade to use the energy of a propellant in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(2) No person may sell or offer to sell, transport, purchase, possess or go armed with a short-barreled shotgun or short-barreled rifle.

(3) Any person violating this section is guilty of a Class E felony.

(4) This section does not apply to the sale, purchase, possession, use or transportation of a short-barreled shotgun or short-barreled rifle to or by any armed forces or national guard personnel in line of duty, any peace officer of the United States or of any political subdivision of the United States or any person who has complied with the licensing and registration requirements under 26 USC 5801 to 5872. This section does not apply to the manufacture of short-barreled shotguns or short-barreled rifles for any person or group authorized to possess these weapons. The restriction on transportation contained in this section does not apply to common carriers. This section shall not apply to any firearm that may be lawfully possessed under federal law, or any firearm that could have been lawfully registered at the time of the enactment of the national firearms act of 1968.

(5) Any firearm seized under this section is subject to s. 968.20 (3) and is presumed to be contraband.

History: 1979 c. 115.

941.29 Possession of a firearm. (1) A person is subject to the requirements and penalties of this section if he or she has been:

- (a) Convicted of a felony in this state.
- (b) Convicted of a crime elsewhere that would be a felony if committed in this state
- (c) Found not guilty of a felony in this state by reason of mental disease or defect.
- (d) Found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect or illness.

(2) Any person specified in sub. (1) who, subsequent to the conviction for the felony or other crime, as specified in sub. (1), or subsequent to the finding of not guilty or not responsible by reason of insanity or mental disease, defect or illness, possesses a firearm is guilty of a Class E felony.

(3) Any firearm involved in an offense under sub. (2) is subject to s. 968.20 (3).

(4) A person is concerned with the commission of a crime, as specified in s. 939.05 (2)(b), in violation of this section if he or she knowingly furnishes a person with a firearm in violation of sub. (2).

(5) This section does not apply to any person specified in sub. (1) who:

- (a) Has received a pardon with respect to the crime or felony specified in sub. (1) and has been expressly authorized to possess a firearm under 18 USC app. 1203; or
- (b) Has obtained relief from disabilities under 18 USC 925 (c).

(6) The prohibition against firearm possession under this section does not apply to any correctional officer employed before May 1, 1982, who is required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity.

(7) This section does not apply to any person who has been found not guilty or not responsible by reason of insanity or mental disease, defect or illness if a court subsequently determines both of the following:

- (a) The person is no longer insane or no longer has a mental disease, defect or illness.
- (b) The person is not likely to act in a manner dangerous to public safety.

History: 1981 c. 141, 317; 1983 a. 269; 1985 a. 259.

NOTE: See Chapter 141, laws of 1981, section 2, entitled "Initial applicability."

Where defendant is willing to stipulate to being a convicted felon, evidence of nature of felony is irrelevant if offered only to support felony conviction element. *State v. McAllister*, 153 W (2d) 523; 451 NW (2d) 764 (Ct. App. 1989).

Sub. (5) (a) has been invalidated by congressional action. Pardons granted after November 15, 1986, will give recipients right to receive, possess or transport in commerce firearms unless pardon expressly provides otherwise. 78 Atty. Gen. 22.

941.295 Possession of electric weapon. (1) Whoever sells, transports, manufactures, possesses or goes armed with any electric weapon is guilty of a Class E felony.

(2) Subsection (1) does not apply to:

- (a) Any peace officer.
- (b) Any armed forces or national guard personnel while on official duty.
- (c) Any corrections personnel in the department of corrections while on official duty.
- (d) Any manufacturer or seller whose electric weapons are used in this state solely by persons specified in pars. (a) to (c).
- (e) Any common carrier transporting electric weapons.

(3) During the first 30 days after May 7, 1982, the electric weapons may be surrendered to any peace officer. Peace officers shall forward electric weapons to the crime laborato-

ries if the retention of those weapons is not necessary for criminal prosecution purposes.

(4) In this section, "electric weapon" means any device which is designed, redesigned, used or intended to be used, offensively or defensively, to immobilize or incapacitate persons by the use of electric current.

History: 1981 c. 348; 1985 a. 29 s. 3200 (35); 1989 a. 31, 56.

OTHER DANGEROUS INSTRUMENTALITIES AND PRACTICES

941.30 Recklessly endangering safety. (1) FIRST-DEGREE RECKLESSLY ENDANGERING SAFETY. Whoever recklessly endangers another's safety under circumstances which show utter disregard for human life is guilty of a Class D felony.

(2) SECOND-DEGREE RECKLESSLY ENDANGERING SAFETY. Whoever recklessly endangers another's safety is guilty of a Class E felony.

History: 1987 a. 399.

Judicial Council Note, 1988: Sub. (1) is analogous to the prior offense of endangering safety by conduct regardless of life.

Sub. (2) is new. It creates the offense of endangering safety by criminal recklessness. See s. 939.24 and the NOTE thereto [Bill 191-S].

See note to 939.66, citing *State v. Carrington*, 134 W (2d) 260, 397 NW (2d) 484 (1986).

941.31 Possession of explosives. (1) Whoever makes, buys, transports, possesses, or transfers any explosive compound or offers to do the same, either with intent to use such explosive to commit a crime or knowing that another intends to use it to commit a crime, is guilty of a Class C felony.

(2) (a) In this subsection, "improvised explosive device" means a destructive explosive device capable of causing bodily harm, great bodily harm, death or property damage; with some type of explosive material and a means of detonating the explosive material, directly, remotely, or with a timer either present or readily capable of being inserted or attached; which may include a pipe or similar casing, with the ends of the pipe or casing capped, plugged or crimped, and a fuse or similar object sticking out of the pipe or casing; and made by a person not engaged in the legitimate manufacture or legitimate use of explosives, or otherwise authorized by law to do so. "Improvised explosive device" does not include ammunition for any rifle, pistol or shotgun.

(b) Whoever makes, buys, sells, transports, possesses, uses or transfers any improvised explosive device, or possesses materials or components with intent to assemble any improvised explosive device, is guilty of a Class E felony.

(c) This subsection does not apply to the transportation, possession, use or transfer of any improvised explosive device by any armed forces or national guard personnel or to any peace officer in the line of duty or as part of a duty-related function or exercise. The restriction on transportation in this subsection does not apply to common carriers.

History: 1977 c. 173; 1987 a. 234.

941.32 Administering dangerous or stupefying drug. Whoever administers to another or causes another to take any poisonous, stupefying, overpowering, narcotic, or anesthetic substance with intent thereby to facilitate the commission of a crime is guilty of a Class C felony.

History: 1977 c. 173

941.325 Placing foreign objects in edibles. Whoever places objects, drugs or other substances in candy or other edibles with the intent to cause bodily harm to another person is guilty of a Class E felony.

History: 1971 c. 72; 1977 c. 173.

941.327 Tampering with household products. (1) In this section:

(a) "Cosmetic" means articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and articles intended for use as a component of any such articles. "Cosmetic" does not include soap.

(b) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory which is recognized in the official national formula, or the United States Pharmacopeia, or any supplement to them; intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment or prevention of disease, in persons or other animals; or intended to affect the structure or any function of the body of persons or other animals; and which does not achieve any of its principal intended purposes through chemical action within or on the body of persons or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

(c) "Drug" has the meaning described in s. 450.01 (10), but does not include a prescription drug.

(d) "Food" has the meaning described in s. 97.01 (6).

(e) "Household product" means any food, drug, device or cosmetic or any article, product or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of that consumption or use.

(f) "Label" means a written, printed or graphic matter upon the immediate container of any household product.

(g) "Labeling" means all labels and other written, printed or graphic matter upon any household product or any of its containers or wrappers or accompanying any household product.

(h) "Prescription drug" has the meaning described in s. 450.01 (20).

(2) (a) Whoever, with intent to kill, injure or otherwise endanger the health or safety of any person or to cause significant injury or damage to the business of any person or entity, does either of the following may be punished under par. (b):

1. Tamper with any household product and thereby taints the product.

2. Tamper with any household product or its container and thereby renders the labeling of the product or its container materially false or misleading.

(b) 1. Except as provided in subs. 2 to 4, a person violating par. (a) is guilty of a Class E felony.

2. If the act under par. (a) creates a high probability of great bodily harm to another, a person violating par. (a) is guilty of a Class D felony.

3. If the act under par. (a) causes great bodily harm to another, a person violating par. (a) is guilty of a Class C felony.

4. If the act under par. (a) causes death to another, a person is guilty of a Class A felony.

(3) Whoever intentionally imparts or conveys false information, knowing the information to be false, concerning an act or attempted act which, if true, would constitute a violation of sub. (2) is guilty of a Class E felony.

History: 1987 a. 90.

941.34 Fluoroscopic shoe-fitting machines. Whoever uses, or possesses or controls with intent to so use, any fluoroscopic or X-ray machine for the purpose of shoe-fitting or

attempting to fit shoes, or who knowingly permits such machine, whether in use or not, to remain on his or her premises, is subject to a Class B forfeiture. Each day of such use, possession or control shall constitute a separate violation of this section.

History: 1977 c. 173.

941.35 Emergency telephone calls. (1) As used in this section:

(a) "Emergency" means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

(b) "Party line" means a subscriber's line telephone circuit, consisting of 2 or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(2) Whoever intentionally refuses to yield or surrender the use of a party line to another person immediately upon being informed by such other person that he or she wants to report a fire or summon police, medical or other aid in case of emergency, is subject to a Class B forfeiture.

(3) Whoever intentionally asks for or requests the use of a party line on the pretext that an emergency exists, knowing that no emergency in fact exists, is subject to a Class B forfeiture.

(4) Every telephone directory printed and distributed to the general public shall contain a notice prominently printed and displayed in bold-faced type, stating in substance the conduct prohibited by this section, and to be preceded by the word "Warning". This subsection does not apply to directories distributed solely for business advertising purposes, commonly known as classified directories.

History: 1977 c. 173; 1983 a. 189, 192.

941.36 Fraudulent tapping of electric wires or gas or water meters or pipes. (1) Whoever, without permission and for the purpose of obtaining electrical current, gas or water with intent to defraud any vendor of electricity, gas or water by doing any of the following, is guilty of a Class C misdemeanor:

(a) Connects or causes to be connected by wire or any other device with the wire, cables or conductors of any such vendor.

(b) Connects or disconnects the meters, pipes or conduits of the vendor or in any other manner tampers or interferes with the meters, pipes or conduits, or connects with the meters, pipes or conduits by pipes, conduits or other instruments.

(2) The existence of any of the conditions with reference to meters, pipes, conduits or attachments, described in this section, is presumptive evidence that the person to whom gas, electricity or water is at the time being furnished by or through the meters, pipes, conduits or attachments has, with intent to defraud, created or caused to be created the conditions. The presumption does not apply to any person furnished with gas, electricity or water for less than 31 days or until there has been at least one meter reading.

History: 1977 c. 311.

941.37 Obstructing emergency or rescue personnel. (1) In this section:

(a) "Ambulance" has the meaning specified in s. 146.50 (1) (a).

(b) "Authorized emergency vehicle" has the meaning specified in s. 340.01 (3).

(c) "Emergency medical personnel" means an emergency medical technician licensed under s. 146.50, peace officer or fire fighter, or other person operating or staffing an ambulance or an authorized emergency vehicle.

(2) Any person who knowingly obstructs any emergency medical personnel in the performance of duties relating to an emergency or rescue is guilty of a Class A misdemeanor.

(3) Any person who intentionally interferes with any emergency medical personnel in the performance of duties relating to an emergency or rescue and who has reasonable

grounds to believe that the interference may endanger another's safety is guilty of a Class E felony.

(4) Any person who violates sub. (3) and thereby contributes to the death of another is guilty of a Class C felony.

History: 1983 a 515; 1989 a 102.

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