

## 2011 DRAFTING REQUEST

### Bill

Received: **06/07/2011**

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB: **-2239**

For: **Alberta Darling (608) 266-5830**

By/Representing: **Jim Emerson**

May Contact:

Drafter: **chanaman**

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

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Darling@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Concealed carry-- increase penalty if carrying a concealed weapon without a permit and ineligible for permit; if permit not in possession give 48 hours to produce

---

### 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>
/P1	chanaman 06/09/2011	csicilia 06/09/2011		_____			Crime
/1	chanaman 06/10/2011	jdyer 06/10/2011	rschluet 06/09/2011	_____	sbasford 06/09/2011		Crime
/2			rschluet 06/10/2011	_____	ggodwin 06/10/2011	ggodwin 06/17/2011	S&L Crime

FE Sent For:

at  
intro  
6-17-11

<END>

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/1		1/2 6/9 jld	rschluet 06/09/2011	_____	sbasford 06/09/2011		Crime

FE Sent For:

<END>

6/16/11

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

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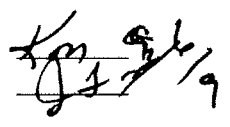
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See attached

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/P1	chanaman	1 gjs 6/9 1					Crime

FE Sent For:

<END>



1  
Cmt  
gjs

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Now

Gen Cat

1 AN ACT...; **relating to:** carrying a concealed weapon if ineligible to possess or if  
2 prohibited from possessing a firearm and providing a 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 for a license to carry a concealed weapon because he or she is prohibited by law from possessing a firearm or is subject to a court order or condition not to possess a firearm. 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. ✓

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 941.23 (2) (intro.) of the statutes, as affected by 2011 Wisconsin Act

.... (Senate Bill 93), is amended to read:

175  
1-3  
3  
4

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~~ I felony:

History: 1977 c. 173; 1979 c. 115, 221; 2007 a. 27.

4 **SECTION 2.** 968.255 (1) (a) 2. of the statutes, as affected by 2011 Wisconsin Act  
5 .... (Senate Bill 93), is amended to read:

6 968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30 (1), 940.19,  
7 941.20 (1), ~~941.23~~, 941.237, 941.24, 948.60, or 948.61.

8 **SECTION 3. Nonstatutory provisions.**

9 (1) If 2011 Wisconsin Act .... (Senate Bill 93) is enacted into law, if section  
10 941.23 of the statutes ~~is~~ <sup>are</sup> affected by that act in the manner shown in Senate  
11 Substitute Amendment <sup>Δ...Δ</sup> (LRBs0135/3), then the treatment of sections 939.632 (1) (e)  
12 3., 941.23 (2) (intro.) and (2d), and 968.255 (1) (a) 2. <sup>take effect on the effective date</sup>  
13 of this subsection. <sup>of the statutes by this act</sup>

14 (2) If 2011 Wisconsin Act .... (Senate Bill 93) is not enacted into law, or if section  
15 941.23 of the statutes ~~is~~ <sup>are</sup> not affected by that act in the manner shown in Senate  
16 Substitute Amendment <sup>Δ...Δ</sup> (LRBs0135/3), then the treatment of sections 939.632 (1) (e)  
17 3., 941.23 (2) (intro.) and (2d), and 968.255 (1) (a) 2. <sup>are void.</sup> <sup>of the statutes by this act</sup>

18 **SECTION 4. Effective date.**

19 (1) SECTION 3 of this act takes effect on <sup>on</sup> the first day of the 4th month  
20 beginning after publication of 2011 Wisconsin Act ... (Senate Bill 93).

21 (END)

to 2011 Wisconsin Act .... (Senate Bill 93)

check a.r.

and

175.60  
(3)  
(a) to  
(e)  
and

INS  
2-4





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE AMENDMENT ,  
TO SENATE SUBSTITUTE AMENDMENT (LRBs0135/3),  
TO 2011 SENATE BILL 93**

*Thaw Bill section number*

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 43, line 19: after that line insert:

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

4 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32

5 (2), 940.42, 940.44, 941.20 (1), 941.23 (2d), 941.235, 941.24 or 941.38 (3). *JS*

6 **2.** Page 43, line 22: delete "Any" and substitute "Any Except as provided in  
7 sub. (2d), any".

8 **3.** Page 43, line 24: delete that line and substitute "of a Class A misdemeanor.  
9 Notwithstanding I felony".

10 **4.** Page 46, line 12: after that line insert:

11 ~~SECTION 53~~ **SECTION 53** 941.23 (2d) of the statutes is created to read:

*Thaw Bill section number*

*INSERT  
1-3*

*INSERT  
24*





State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-2209/1  
CMH:cjs:rs

TODAY

(2)  
L + JL

2011 BILL

X

Regen

1 AN ACT to amend 939.632 (1) (e) 3., 941.23 (2) (intro.) and 968.255 (1) (a) 2.; and  
2 to create 941.23 (2d) of the statutes; relating to: carrying a concealed weapon  
3 if ineligible to possess, or prohibited from possessing, a firearm and providing  
4 a 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 for a license to carry a concealed weapon because he or she is prohibited by law from possessing a firearm or is subject to a court order or condition not to possess a firearm. 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.

to possess a firearm as indicated by a search in the national database. Check you need to

MS A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

NO # = in addition, if the person has been previously convicted of a violent offense, the person must serve at least three years of confinement in prison.

**BILL**

INS 1-1

(2)

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

2 939.632 (1) (e) 3. Any misdemeanor under s. 940.19 (1), 940.225 (3m), 940.32

3 (2), 940.42, 940.44, 941.20 (1), 941.23 (2d), 941.235, 941.24 or 941.38 (3).

4 SECTION 2. 941.23 (2) (intro.) of the statutes, as affected by 2011 Wisconsin Act

5 .... (Senate Bill 93), is amended to read:

6 941.23 (2) (intro.) Any Except as provided in sub. (2d), any person, other than

7 one of the following, who carries a concealed and dangerous weapon is guilty of a

8 Class A misdemeanor (felony): *plan*

9 SECTION 3. 941.23 (2d) of the statutes is created to read:

10 941.23 (2d) A person who violates sub. (2) ~~and~~ who is ~~not~~ ineligible unders.

11 ~~175.60 (3) (a) to (e) for a license under s. 175.60~~ is guilty of a Class A misdemeanor ~~felony~~.

*to possess a  
firearm as  
indicated by a  
search  
in  
the  
national  
instant  
criminal  
background  
check  
system.*

INS  
2-12

12 SECTION 4. ~~968.255 (1) (a) 2.~~ of the statutes, as affected by 2011 Wisconsin Act

13 .... (Senate Bill 93), is amended to read:

14 968.255 (1) (a) 2. Arrested for any misdemeanor under s. 167.30 (1), 940.19,

15 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61.

16 SECTION 5. Nonstatutory provisions.

17 (1) If 2011 Wisconsin Act .... (Senate Bill 93) is enacted into law, and if sections

18 175.60 (3) (a) to (e) and 941.23 of the statutes are affected by that act in the manner

19 shown in Senate Substitute Amendment .... (LRBs0135/3) to 2011 Wisconsin Act ....

20 (Senate Bill 93), then the treatment of sections 939.632 (1) (e) 3., 941.23 (2) (intro.)

21 and ~~(2d)~~ and 941.2405 ~~and 968.255 (1) (a) 2~~ of the statutes by this act take effect on the effective

22 date of this subsection.

23 (2) If 2011 Wisconsin Act .... (Senate Bill 93) is not enacted into law, or if sections

24 175.60 (3) (a) to (e) and 941.23 of the statutes are not affected by that act in the

25 manner shown in Senate Substitute Amendment .... (LRBs0135/3) to 2011 Wisconsin

939.6185

**BILL**

939.6185,

1

Act .... (Senate Bill 93), then the treatment of sections 939.632 (1) (e) 3., 941.23 (2)

2

(intro.) and (2d), ~~and 968.255 (1)(a) 2.~~ of the statutes by this act are void.

and 941.295 ✓

3

**SECTION 6. Effective date.**

4

(1) SECTION 5 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)

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs2209/2ins  
CMH:.....

Insert A  
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 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.

Insert 1-1  
SECTION 1. 939.61~~5~~ of the statutes is created to read:

1  
2  
3 **939.61~~5~~ Mandatory minimum sentence for illegally carrying a**  
4 **concealed weapon if previously convicted of violent felony.** If a person is  
5 convicted of a violation of s. 941.23 (2d) and the person has been previously convicted  
6 of a violent offense, as defined in s. 301.048 (2) (bm), the court shall impose a  
7 bifurcated sentence under s. 973.01. The term of confinement in prison portion of the  
8 bifurcated sentence shall be at least 3 years. Otherwise the penalties for the crime  
apply, subject to any applicable penalty enhancement.

(end ins)

1           ~~941.29 (5) (a) Has received a pardon with respect to the crime or felony specified~~  
 2           ~~in sub. (1) and has been expressly authorized to possess a firearm under 18 USC app.~~  
 3           ~~1203; or~~

4           ~~\*-2912/3.50\* SECTION 92. 941.29 (8) of the statutes is amended to read:~~

5           ~~941.29 (8) This section does not apply to any person specified in sub. (1) (1m)~~  
 6           ~~(bm) if a court subsequently determines that the person is not likely to act in a~~  
 7           ~~manner dangerous to public safety. In any action or proceeding regarding this~~  
 8           ~~determination, the person has the burden of proving by a preponderance of the~~  
 9           ~~evidence that he or she is not likely to act in a manner dangerous to public safety.~~

10          ~~\*-2912/3.51\* SECTION 93. 941.29 (9) of the statutes is repealed.~~

11          ~~\*-2912/3.52\* SECTION 94. 941.29 (10) (intro.) of the statutes is amended to~~  
 12          ~~read:~~

13          ~~941.29 (10) (intro.) The prohibition against firearm possession under this~~  
 14          ~~section does not apply to a person specified in sub. (1) (1m) (f) if the person satisfies~~  
 15          ~~any of the following:~~

16          ~~\*-2912/3.53\* SECTION 95. 941.29 (11) of the statutes is created to read:~~

17          ~~941.29 (11) Subsection (1m) (ag), (bg), (br), (cg), and (dg) does not apply if the~~  
 18          ~~conviction, adjudication, or finding occurred more than 5 years before the date on~~  
 19          ~~which the person possesses the firearm.~~

20          ~~3584/1.25\* SECTION 96. 941.2905 of the statutes is created to read:~~

21          ~~941.2905 Straw purchase of firearm. (1) Whoever purchases a firearm for~~  
 22          ~~a person knowing that the person is prohibited from possessing a firearm under s.~~  
 23          ~~941.29 is guilty of a Class G felony.~~

1MS  
2-12



INS 2-12  
cont

1 (2) A person who possesses a firearm in violation of s. 941.29 (2) is guilty of a  
2 Class F felony if he or she knows that another person purchased the firearm for the  
3 person. ✓  
(end ins)

4 \*-3584/1.26\* SECTION 97. 943.34 (1) (bm) of the statutes is amended to read:  
5 943.34 (1) (bm) A Class H felony, if the property is a firearm and the person  
6 knows or has reason to know that the firearm is stolen or if the value of the property  
7 exceeds \$5,000 but does not exceed \$10,000.

8 \*-2912/3.54\* SECTION 98. 948.59 of the statutes is created to read:  
9 **948.59 Possession of a handgun by a person under 21. (1)** In this section:  
10 (a) "Handgun" has the meaning given in s. 175.35 (1) (b).  
11 (b) "Law enforcement officer" means a Wisconsin law enforcement officer, as  
12 defined in s. 175.46 (1) (g), or a federal law enforcement officer, as defined in s. 175.40  
13 (7) (a) 1.

14 (2) (a) Any person under 21 years of age who possesses or goes armed with a  
15 handgun is guilty of a Class A misdemeanor.

16 (b) 1. Except as provided in subd. 2., any person who intentionally sells, loans,  
17 or gives a handgun to a person under 21 years of age is guilty of a Class I felony.

18 2. Whoever violates subd. 1. is guilty of a Class H felony if the person under 21  
19 years of age under subd. 1. discharges the handgun and the discharge causes death  
20 to himself, herself, or another.

21 (c) A person under 17 years of age who has violated this subsection is subject  
22 to the provisions of ch. 938 unless jurisdiction is waived under s. 938.18 or the person  
23 is subject to the jurisdiction of a court of criminal jurisdiction under s. 938.183.

24 (3) (a) 1. Subsection (2) (a) does not apply to a person under 21 years of age who  
25 possesses or goes armed with a handgun when the handgun is being used in target



Godwin, Gigi

---

**From:** Emerson, James  
**Sent:** Friday, June 17, 2011 1:21 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-2209/2 Topic: Concealed carry-- increase penalty if carrying a concealed weapon without a permit and ineligible for permit; if permit not in possession give 48 hours to produce

Please Jacket LRB 11-2209/2 for the SENATE.

2:05pm  
Per phone call → RUSH