



2013 ASSEMBLY BILL 357

September 13, 2013 – Introduced by Representatives ZEPNICK, KLEEFISCH, OHNSTAD and WACHS, cosponsored by Senator CARPENTER. Referred to Committee on Criminal Justice.

1 **AN ACT** *to amend* 939.63 (2) and 973.01 (2) (c) 2. a.; and *to create* 939.631 of the
2 statutes; **relating to:** penalty enhancer for certain crimes committed on the
3 premises of a gas station if actor is armed and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, if a person commits a crime while possessing, using, or threatening to use a dangerous weapon, the maximum term of imprisonment prescribed by law for that crime is increased by up to six months if the crime is a misdemeanor, by up to four years if the crime is a felony with a maximum term of imprisonment between two and five years, by up to five years if the crime is a felony with a maximum term of imprisonment of more than five years or a life term, and by up to three years for a felony not specified above. Under this bill, a person is subject to a penalty enhancer if the person, while armed with a handgun and on the premises of a gas station, commits intentional homicide, first-degree reckless homicide, felony murder, certain batteries, taking hostages, kidnapping, certain crimes of damage to property, burglary, carjacking, or robbery if the property taken is at least \$100. If the person commits one of those crimes and the crime is a felony, the maximum term of imprisonment is increased by five years, and if the crime is a misdemeanor, the maximum term of imprisonment is increased by three months.

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.

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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.** 939.63 (2) of the statutes is amended to read:

2 939.63 (2) The increased penalty provided in this section does not apply if
3 possessing, using or threatening to use a dangerous weapon is an essential element
4 of the crime charged or if the increased penalty provided under s. 939.631 (2) is
5 applied.

6 **SECTION 2.** 939.631 of the statutes is created to read:

7 **939.631 Penalties; dangerous weapon on the premises of a gas station.**

8 **(1) DEFINITIONS.** In this section:

9 (a) “Gas station” means a business that sells, or offers to sell, gasoline or diesel
10 fuel on site at retail.

11 (b) “Handgun” has the meaning given in s. 175.35 (1) (b).

12 (c) “Violent crime” means any of the following:

13 1. A felony under s. 940.01, 940.02, 940.03, 940.05, 940.19 (2), (4), or (5),
14 940.305, 940.31, 943.01 (2) or (2g), 943.10 (2), or 943.23 (1g).

15 2. A felony under s. 943.32 (2) if the value of the property taken is not less than
16 \$100.

17 3. A misdemeanor under s. 940.19 (1) or (6) or 943.01 (1).

18 **(2) PENALTY ENHANCER.** If a person commits a violent crime while armed with
19 a handgun and while on the premises of a gas station, the maximum term of
20 imprisonment is increased as follows:

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1 (a) If the violent crime is a felony, the maximum term of imprisonment is
2 increased by 5 years.

3 (b) If the violent crime is a misdemeanor, the maximum term of imprisonment
4 is increased by 3 months and the place of imprisonment is the county jail.

5 **(3) SPECIAL VERDICT.** Subsection (2) provides for the enhancement of the
6 penalties applicable for the underlying crime. The court shall direct that the trier
7 of fact find a special verdict as to all of the issues specified in sub. (2).

8 **SECTION 3.** 973.01 (2) (c) 2. a. of the statutes is amended to read:

9 973.01 **(2)** (c) 2. a. Sections 939.621, 939.631, 939.632, 939.635, 939.645, 946.42
10 (4), 961.46, and 961.49.

11 **SECTION 4. Initial applicability.**

12 (1) The treatment of section 939.631 of the statutes first applies to acts
13 committed on the effective date of this subsection.

14 **(END)**