



## 2011 SENATE BILL 91

May 10, 2011 - Introduced by Senators HANSEN and RISSER, cosponsored by Representatives VAN ROY, SPANBAUER, ENDSLEY, RIVARD, BALLWEG, THIESFELDT and BROOKS. Referred to Committee on Labor, Public Safety, and Urban Affairs.

1     **AN ACT to amend** 939.63 (1) (intro.), 940.225 (1) (b), 941.2965 (2), 943.32 (2) and  
2             946.415 (2) (c) of the statutes; **relating to:** use of a facsimile firearm and  
3             providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person who commits certain crimes by using or threatening to use a dangerous weapon or an article used or fashioned in a manner that the victim believes is a dangerous weapon is subject to greater penalties than the person would be if he or she committed the crime without using a dangerous weapon.

Under this bill, a person is subject to the same penalties as he or she would be under current law for using a dangerous weapon if the person commits a crime using a facsimile firearm. A "facsimile firearm" is defined as any replica, toy, starter pistol, or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm.

Current law also prohibits a person from carrying or displaying a facsimile firearm in a way that would alarm, intimidate, threaten, or terrify another person. Anyone who does so is subject to a Class C forfeiture and may be required to pay a forfeiture not to exceed \$500.

This bill increases that penalty to a Class A misdemeanor and a person who violates the provision may be fined up to \$10,000, imprisoned for up to nine months, or both.

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

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report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1           **SECTION 1.** 939.63 (1) (intro.) of the statutes is amended to read:

2           939.63 (1) (intro.) If a person commits a crime while possessing, using or  
3 threatening to use a dangerous weapon or while using or threatening to use a  
4 facsimile firearm, the maximum term of imprisonment prescribed by law for that  
5 crime may be increased as follows:

6           **SECTION 2.** 940.225 (1) (b) of the statutes is amended to read:

7           940.225 (1) (b) Has sexual contact or sexual intercourse with another person  
8 without consent of that person by use or threat of use of a dangerous weapon, a  
9 facsimile firearm, or any other article used or fashioned in a manner to lead the  
10 victim reasonably to believe it to be a dangerous weapon.

11           **SECTION 3.** 941.2965 (2) of the statutes is amended to read:

12           941.2965 (2) No person may carry or display a facsimile firearm in a manner  
13 that could reasonably be expected to alarm, intimidate, threaten or terrify another  
14 person. Whoever violates this section is ~~subject to a Class C forfeiture~~ guilty of a  
15 Class A misdemeanor.

16           **SECTION 4.** 943.32 (2) of the statutes is amended to read:

17           943.32 (2) Whoever violates sub. (1) by use or threat of use of a dangerous  
18 weapon, a device or container described under s. 941.26 (4) (a), a facsimile firearm,  
19 or any other article used or fashioned in a manner to lead the victim reasonably to  
20 believe that it is a dangerous weapon or such a device or container is guilty of a Class  
21 C felony.

