

CHAPTER 941

CRIMES AGAINST PUBLIC HEALTH AND SAFETY

VEHICLES

- 941.01 Negligent operation of vehicle.
 941.03 Highway obstruction.
 941.04 Mooring watercraft to railroad tracks or fixtures.

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 Reckless use of weapons.
 941.22 Possession of pistol by minor.
 941.23 Carrying concealed weapon.
 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.

OTHER DANGEROUS INSTRUMENTALITIES AND PRACTICES

- 941.30 Endangering safety by conduct regardless of life.
 941.31 Possession of explosives for unlawful purpose.
 941.32 Administering dangerous or stupefying drug.
 941.325 Placing foreign objects in edibles.
 941.33 Hazing.
 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.

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) A high degree of negligence is conduct which demonstrates ordinary negligence to a high degree, consisting of an act which the person should realize creates a situation of unreasonable risk and high probability of death or great bodily harm to another.

(3) Upon conviction hereunder, no revocation or suspension of operator's license shall follow.

History: 1977 c. 173.

941.03 Highway obstruction. (1) Whoever creates an unreasonable risk and high probability of causing death or great bodily harm to another by intentionally placing an obstacle in or upon a highway, damaging a highway, removing or tampering with a sign or signal used for the guidance of vehicles, giving a false traffic signal, or otherwise interfering with the orderly flow of traffic and realizes that he or she thereby creates such risk and probability is guilty of a Class C felony.

(2) In this section, "highway" means any public way or thoroughfare, including bridges thereon, any roadways commonly used for vehicular traffic, whether public or private, any railroad, including street and interurban railroads, and any navigable waterway or airport.

History: 1977 c. 173.

941.04 Mooring watercraft to railroad tracks or fixtures. (1) Whoever does either of

the following under circumstances endangering human life is guilty of a Class D felony:

(a) Moors a navigation craft to a railroad track, bridge, signal, switch or other railroad structure; or

(b) Moors or anchors a navigation craft against a railroad embankment or structure so as to obstruct or interfere with the operation of vehicles on the railroad.

History: 1977 c. 173.

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, under the circumstances, the person should realize that he creates an unreasonable risk and high probability of death or great bodily harm to another or serious damage to another's property.

History: 1977 c. 173.

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

(a) Endangers another's safety by reckless conduct in the operation or handling of a firearm, airgun, knife or bow and arrow; 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 does not include any house trailer, mobile home, 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.

(3) Reckless conduct consists of an act which creates a situation of unreasonable risk and high

probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take known chances of perpetrating an injury. It is intended that this definition embraces all of the elements of what was heretofore known as gross negligence in the criminal law of Wisconsin.

History: 1977 c. 173.

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.

941.22 Possession of pistol by minor. (1) Any minor who goes armed with a pistol or any person who intentionally sells, loans or gives a pistol to a minor is guilty of a Class A misdemeanor.

(2) This section does not apply to a minor who is armed with a pistol when such pistol is being used in target practice under the supervision of an adult nor does it apply to an adult who transfers a pistol to a minor for use only in target practice under his supervision.

(3) All sheriffs, their undersheriffs and deputies, constables, and policemen shall take from a minor any pistol found in his possession in violation of this section.

(4) In this section "pistol" means any firearm having a barrel less than 12 inches long.

History: 1977 c. 173.

941.23 Carrying concealed weapon. (1) Any person except a peace officer who goes armed with a concealed and dangerous weapon is guilty of a Class A misdemeanor.

(2) Any weapon involved in an offense under sub. (1) may be seized and shall be forwarded, within 48 hours of seizure, to the crime laboratory division of the department of justice for examination. If the weapon is owned by a person convicted under sub. (1), it shall be confiscated and destroyed by the division after such referral. If it is owned by a person other than the person convicted under sub. (1), the trial judge may decide whether such weapon shall be returned to its rightful owner or destroyed by the crime laboratory division.

History: 1977 c. 173.

The burden is on the defendant to prove that he is a peace officer so as to come within the exception in (1). *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.

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 bomb, hand grenade, projectile, shell or 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.

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.

OTHER DANGEROUS INSTRUMENTALITIES AND PRACTICES.

941.30 Endangering safety by conduct regardless of life. Whoever endangers another's safety by conduct imminently dangerous to another and evincing a depraved mind, regardless of human life, is guilty of a Class D felony.

History: 1977 c. 173.

Proof that defendant entered a home, pointed a gun at a person, and stated that he intended to kill him is sufficient to establish a depraved mind. *Kwosek v. State*, 60 W (2d) 276, 208 NW (2d) 308.

The offense created by this section is a lesser included offense of the crime created under 940.23. What constitutes a "depraved mind" discussed. *State v. Weso*, 60 W (2d) 404, 210 NW (2d) 442.

941.31 Possession of explosives for unlawful purpose. 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.

History: 1977 c. 173.

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.

941.33 Hazing. Whoever engages in or incites hazing which results in or is likely to result

in bodily harm to another in any school is guilty of a Class C misdemeanor.

History: 1977 c. 173.

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) "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.

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

(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 members of the general public

after September 1, 1965, shall contain a notice to be prominently printed and displayed in bold-faced type, stating in substance the conduct prohibited by this statute, and to be preceded by the word "Warning". This subsection shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories.

History: 1977 c. 173.

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.