

1354 PLACING FOREIGN OBJECTS IN EDIBLES — § 941.325**Statutory Definition of the Crime**

Placing foreign objects in edibles, as defined in § 941.325 of the Criminal Code of Wisconsin, is committed by one who places objects, drugs, or other substances in candy or other liquid or solid edibles with the intent to cause bodily harm to another person.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following two elements were present.

Elements of the Crime That the State Must Prove

1. The defendant placed (an object) (a drug) (a substance) in (candy) (a liquid or solid edible).

("Edible" means something that can be eaten.)¹

2. The defendant committed that act with intent to cause bodily harm to another person.

"Bodily harm" means physical pain, injury, illness, or any impairment of physical condition.²

Deciding About Intent

You cannot look into a person's mind to find intent. Intent must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent.

Jury's Decision

If you are satisfied beyond a reasonable doubt that both elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1354 was originally published in 1987 and revised in 1991. This revision was approved by the Committee in March 2007 and involved adoption of a new format and nonsubstantive changes to the text.

1. This definition is based on the dictionary definition of the term. See, for example, Webster's New Collegiate Dictionary.

The Wisconsin Court of Appeals has held that the statute also applies to "liquid food" or "liquid edibles." State v. Timm, 163 Wis.2d 894, 472 N.W.2d 593 (Ct. App. 1991). The court apparently approved a broader definition which equates "edible" with "food" as defined in Webster's Third International Dictionary 722 (1976): "material . . . taken or absorbed into the body . . . to sustain growth . . . and to furnish energy." 163 Wis.2d 894, 898.

In 1996, the statute was amended to add the following underlined language: ". . . or other liquid or solid edibles." 1995 Wisconsin Act 410.

2. Section 939.22(4).