

**1418 MOLOTOV COCKTAILS¹ (FIREBOMBS): MANUFACTURE, SALE,
OFFER TO SELL, GIFT OR TRANSFER — § 943.06**

Statutory Definition of the Crime

Section 943.06 of the Criminal Code of Wisconsin is violated by one who manufactures, sells, offers for sale, gives, or transfers a firebomb.

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 defendant (manufactured) (sold) (offered for sale) (gave) (transferred) a firebomb.²

"Firebomb" means a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited. The term "firebomb" does not mean a device commercially manufactured primarily for the purpose of illumination.³

["Transfer" means any transaction involving a change in possession of a firebomb or a change of right, title, or interest to or in a firebomb.]⁴

Jury's Decision

If you are satisfied beyond a reasonable doubt that the defendant (manufactured) (sold) (offered for sale) (gave) (transferred) a firebomb, you should find the defendant guilty.

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

COMMENT

Wis JI-Criminal 1418 was originally published in 1974 and revised in 1995. This revision was approved by the Committee in December 2007 and involved adoption of a new format and nonsubstantive changes to the text.

1. The statutory title for this offense uses the term "molotov cocktail," though that term is not used elsewhere in the statute. The American Heritage Dictionary provides the following definition:

Molotov cocktail: A makeshift bomb made of a breakable container filled with flammable liquid and provided with a usually rag wick that is lighted just before being hurled.

It is named after Vyacheslav Mikhailovich Molotov (1890 - 1986), a Soviet politician who was head of the Council of People's commissars (1930-41) and foreign minister (1939-49 and 1953-56).

2. Section 943.06(2) does not contain any of the words or phrases outlined in § 939.23 which indicate that knowledge or criminal intent is an element of a crime. Accordingly, although it remains an arguable issue inasmuch as the Wisconsin Supreme Court has not construed or interpreted § 943.06, it appears that § 943.06 is a "strict liability" statute and that knowledge or criminal intent does not have to be alleged or proved by the state in order to obtain a conviction under it. This appears to be the case, at least regarding a person who manufactures, sells, offers for sale, gives, or transfers a firebomb. With respect to a person who is charged with possession of a firebomb, see Wis JI-Criminal 1417.

3. This is the definition provided in § 943.06(1).

4. This is the definition provided in § 939.22(40). Insert this sentence when transfer of a firebomb is charged.