

1433 ENTRY INTO LOCKED COIN BOX — § 943.125**Statutory Definition of the Crime**

Entry into a locked coin box, as defined in § 943.125 of the Criminal Code of Wisconsin, is committed by one who intentionally enters a locked coin box of another without consent and with intent to steal.

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 four elements were present.

Elements of the Crime That the State Must Prove

1. The defendant intentionally entered a locked coin box of another.

"Coin box" means any device or receptacle designed to receive money or any other thing of value. [A (name item specified in § 943.125(3)) is a coin box.]¹

2. The defendant intentionally entered a locked coin box without the consent² of the owner.
3. The defendant knew that the coin box belonged to another and knew that the entry was without the consent of the owner.³
4. The defendant entered the coin box with intent to steal.

"Intent to steal" requires that the defendant had the mental purpose to take and carry away movable property of another without consent and that the

defendant intended to deprive the owner permanently of possession of the property.⁴

When Must Intent Exist?

The intent to steal must be formed before entry is made. The intent to steal, which is an essential element of this offense, is no more or less than the mental purpose to steal formed at any time before the entry, which continued to exist at the time of the entry.

Deciding About Intent and Knowledge

You cannot look into a person's mind to find intent and knowledge. Intent and knowledge 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 and knowledge.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all four 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 1433 was originally published in 1984 and revised in 1995. This revision was approved by the Committee in February 2004 and involved adoption of a new format and non-substantive changes in the text.

This instruction is for a violation of § 943.125(1). Subsection (2) of the statute makes it a crime to possess "any device or instrumentality" for use in breaking into a coin box. There is no standard instruction for violations of sub. (2).

1. The Committee has concluded that the jury may be advised that a particular device is listed in the statutory definition of "coin box" in § 943.125(3). It is for the jury to determine whether the device in the case is, in fact, one of the listed devices or receptacles. If the device in the case is not listed in the statute, the statement in brackets should not be used.

The definition in § 943.125(3) provides:

(3) In this section, "coin box" means any device or receptacle designed to receive money or any other thing of value. The term includes a depository box, parking meter, vending machine, pay telephone, money changing machine, coin-operated phonograph and amusement machine if they are designed to receive money or other thing of value.

2. If definition of "without consent" is believed to be necessary, see Wis JI-Criminal 948 which provides an instruction based on the definition provided in § 939.22(48). That definition provides that "without consent" means "no consent in fact" or that consent was given because of fear, a claim of legal authority by the defendant, or misunderstanding.

3. Knowledge that the coin box belonged to another and that the entry was without consent is required because the definition of this offense begins with the word "intentionally." Section 939.23(3) provides that the word "intentionally" requires "knowledge of those facts which are necessary to make [the] conduct criminal and which are set forth after the word 'intentionally'" in the statute.

4. This is intended to be a summary of the necessary components of "intent to steal." See Wis JI-Criminal 1441, Theft.