

133.27 History: 1935 c. 52, 486; Stats. 1935 s. 133.27.

133.28 History: 1947 c. 520; Stats. 1947 s. 133.28.

CHAPTER 134.

Miscellaneous Trade Regulations.

134.01 History: 1887 c. 287; Ann. Stats. 1889 s. 4466a; Stats. 1898 s. 4466a; 1925 c. 4; Stats. 1925 s. 343.681; 1955 c. 696 s. 134; Stats. 1955 s. 134.01.

On exercises of police power see notes to sec. 1, art. I; and on legislative power generally see notes to sec. 1, art. IV.

In a civil action for damages instituted against members of a conspiracy, the gist of the action is the damage; in a criminal prosecution for the offense of conspiring, the gist of the action is the conspiracy. *Martens v. Reilly*, 109 W 464, 84 NW 840.

The complaint stating that 3 persons, naming them, concerted together for the purpose of maliciously injuring another in his business describes conspiracy under sec. 4466a, Stats. 1898. An agreement between independent newspaper publishers to compel a fourth person engaged in the same business to reduce his rates for advertising or lose customers comes within this section. *State ex rel. Durner v. Huegin*, 110 W 189, 85 NW 1046; *Aikens v. State*, 113 W 419, 89 NW 1135.

Where persons conspire together to prevent another person from performing her marital duties, from living with her husband, from receiving at his hands that support to which she was entitled, from obtaining a divorce in her home jurisdiction which should fully protect her rights and by reducing her to penury, compel her to allow her husband to obtain a divorce upon false and fraudulent allegations in a foreign jurisdiction, a criminal conspiracy exists within sec. 4466a, Stats. 1898. *Randall v. Lonstorf*, 126 W 147, 105 NW 663.

It is not necessary in an action for damages for a consummated conspiracy to state all the essentials of a criminal conspiracy under sec. 4466a, Stats. 1898, if the complaint shows a conspiracy at common law. Allegations that 2 or more persons, naming them, have maliciously combined to produce separation between husband and wife, causing the former to desert the latter when she desired their marriage contract to continue, states a conspiracy, and where the conspiracy has been consummated to the damage of the wife, a cause of action is stated. *White v. White*, 132 W 121, 111 NW 1116.

Surveillance by private individuals to prevent a suspect from leaving the state until they can determine whether or not to have him arrested, if maliciously done, is a violation of sec. 4466a, Stats. 1911, and gives the injured person a right of action. *Schultz v. Frankfort M. A. & P. G. Ins. Co.* 151 W 537, 139 NW 386.

A contract by employing printers with a union that there should be only collective bargaining on the question of a closed shop does not show a purpose to unlawfully interfere with, impair or impede the individual members of a typographical union or other individ-

ual workmen so as to require a holding that it was in violation of public policy and was not violative of 133.01, 343.681, 343.682, or 348.40, Stats. 1953. *Trade Press Pub. Co. v. Milwaukee Typo. Union*, 180 W 449, 193 NW 507.

In an action for damages for wrongful conspiracy of defendants, whereby plaintiff was required to give up a retail cleaning and dyeing business, the evidence was sufficient to show such conspiracy, as against a motion for nonsuit. *Boyce v. Independent Cleaners, Inc.* 206 W 521, 240 NW 132.

A complaint which contains no allegation that the defendants conspired to do the acts complained of does not state a cause of action under this section. The existence of a conspiracy is essential to create civil liability for violation of the statute. *Judevine v. Benzies-Montanye F. & W. Co.* 222 W 512, 269 NW 295.

A strike is not unlawful nor are injuries caused by it criminal under this section where the betterment of labor conditions is the main object sought, even though the strikers secure all of the available laborers. *Allis-Chalmers Co. v. Iron M. Union*, 150 F 155.

Milk producers who threaten a cheese manufacturer with loss of their patronage if he buys milk from certain other producers are guilty of violating 134.01 or 133.01, Stats. 1921, depending on whether their purpose is malicious injury or prevention of competition. 10 Atty. Gen. 1031.

Picketing for an unlawful objective might constitute a violation under 134.01, Stats. 1947, but picketing for a proper purpose would not constitute such a violation. (24 Atty. Gen. 613 discussed.) 38 Atty. Gen. 17.

134.02 History: 1887 c. 349; Ann. Stats. 1889 s. 4466b; 1895 c. 240; Stats. 1898 s. 4466b; 1925 c. 4; Stats. 1925 s. 343.682; 1955 c. 696 s. 135; Stats. 1955 s. 134.02.

134.03 History: 1887 c. 427 s. 1; Ann. Stats. 1889 s. 4466c; Stats. 1898 s. 4466c; 1923 c. 55; 1925 c. 4; Stats. 1925 s. 343.683; 1955 c. 696 s. 136; Stats. 1955 s. 134.03.

The complaint stated facts sufficient to constitute a cause of action under sec. 4466c, Stats. 1898. *Fischer v. State*, 101 W 23, 76 NW 594.

The defendant's admission, "I would just as soon kill my own brother if he went into that shop. We did a good job on a few old fellows," made shortly after a codefendant, and then the defendant, had assaulted a nonstriking employe, constituted an admission as to the defendant's own motives and purposes in committing the assault, and was probative of his own guilt under 343.683, Stats. 1945. *State v. Jakubowski*, 251 W 74, 27 NW (2d) 742.

Peaceable picketing is the mere act of inviting attention to the existence of a strike as by signs or banners, and seizure or destruction of property or use of force or threats and calling of vile names is not peaceable picketing. 22 Atty. Gen. 340.

See note to 103.53, citing 23 Atty. Gen. 279. Responsibility in tort of voluntary unincorporated associations. *Laurent*, 12 WLR 523.

134.04 History: 1939 c. 129, 490; Stats. 1939 s. 348.54; 1951 c. 266; 1955 c. 696 s. 286; Stats. 1955 s. 134.04.

134.05 History: 1905 c. 129 s. 1; Supl. 1906 s. 4575m; 1925 c. 4; Stats. 1925 s. 348.486; 1955 c. 696 s. 280; Stats. 1955 s. 134.05.

134.06 History: 1919 c. 375; Stats. 1919 s. 4575m—1; 1925 c. 4; Stats. 1925 s. 348.487; 1955 c. 696 s. 281; Stats. 1955 s. 134.06.

134.10 History: 1957 c. 448, 672; Stats. 1957 s. 134.10.

134.11 History: 1957 c. 448, 672; Stats. 1957 s. 134.11.

134.15 History: 1854 c. 34 s. 1 to 3; R. S. 1858 c. 169 s. 16 to 19, 21 to 23, 25; R. S. 1878 s. 4540, 4542; Stats. 1898 s. 4540, 4542; 1925 c. 4; Stats. 1925 s. 348.18, 348.20; 1949 c. 262; 1955 c. 696 s. 201, 203; Stats. 1955 s. 134.15.

134.16 History: 1876 c. 213 s. 1; R. S. 1878 s. 4541; Stats. 1898 s. 4541; 1925 c. 4; Stats. 1925 s. 348.19; 1955 c. 696 s. 202; Stats. 1955 s. 134.16.

Sec. 4541, R. S. 1878, applies to any person who is himself engaged in the business of a banker or broker and who receives money, etc., on deposit or for safekeeping. *Baker v. State*, 54 W 368, 12 NW 12.

Sec. 4541, R. S. 1878, is not an amendment to the banking act and void because never submitted to a vote of the people; but it is a general law applicable to all banks and to individuals, and does not affect or impair any right given by the banking law. In *re Koetting*, 90 W 166, 62 NW 622.

The 4 purposes specified in the statute seem to be broad enough to include every purpose for which a bank or banker can accept or receive money or commercial paper for collection. The transaction is a deposit notwithstanding the fact that a portion of the sum for which the certificate was given was represented by a certificate of deposit held against the bank and was surrendered at the time the certificate in question issued. *State v. Shove*, 96 W 1, 70 NW 312.

A bank is unsafe or insolvent under sec. 4541, Stats. 1898, when its assets at a fair valuation are insufficient to cover its liabilities exclusive of liability to stockholders. The rule whereby insolvency exists when the bank has not fully met its liabilities in the ordinary course of business does not apply. A deposit made by check is a deposit of money within this section. *Ellis v. State*, 138 W 513, 119 NW 1110.

If a bank is insolvent and accepts money for which it issues drafts on out of town banks which will not be met, and the transaction be deemed in the nature of a deposit, there is a violation of the statute. *Union S. Bank v. Peoples S. Bank*, 192 W 28, 211 NW 931.

On the use of "or" instead of "and" in charging an offense, see note to 971.03 (general), citing *State v. Kitzerow*, 221 W 436, 267 NW 71.

134.17 History: 1901 c. 446 s. 1; Supl. 1906 s. 4470b; 1925 c. 4; Stats. 1925 s. 343.722; 1943 c. 203; 1947 c. 230; 1955 c. 696 s. 142; Stats. 1955 s. 134.17.

The fact that the individual drawer of a trade acceptance conducted his business under a name, in form corporate, and signed the acceptance under such assumed name, does not

affect the rights of a holder in due course. *Wakem v. Schneider*, 192 W 528, 213 NW 328.

343.722, Stats. 1933, is applicable to such names as "Reliable Laundry", "West Side Garage" or "National Photo Studio" or other similar names. 22 Atty. Gen. 359.

134.18 History: 1901 c. 446 s. 2; Supl. 1906 s. 4470c; 1925 c. 4; Stats. 1925 s. 343.723; 1955 c. 696 s. 143; Stats. 1955 s. 134.18.

134.19 History: 1893 c. 57; Stats. 1898 s. 4438f; 1925 c. 4; Stats. 1925 s. 343.407; 1955 c. 696 s. 107; Stats. 1955 s. 134.19.

In an action for damages for malicious garnishment of plaintiff's wages, a special verdict failing to contain a finding of malice or want of probable cause was insufficient. *Leeman v. McGrath*, 116 W 49, 92 NW 425.

134.20 History: R. S. 1849 c. 134 s. 31; R. S. 1858 c. 165 s. 36; 1860 c. 340 s. 1 to 5, 7, 8; 1863 c. 73 s. 1; R. S. 1878 s. 4424; Stats. 1898 s. 4424; 1909 c. 291; 1925 c. 4; Stats. 1925 s. 343.26; 1955 c. 696 s. 90; Stats. 1955 s. 134.20; 1963 c. 158.

Legislative Council Note, 1963: The revised section is a consolidation of the provisions of present s. 134.20 with a large number of similar penalty provisions in ch. 119 (Uniform Warehouse Receipts Act) and ch. 120 (Uniform Bills of Lading Act). The commercial code replaces the UWRA and UBLA but omits the penalty provisions. In general, the revised section covers present law as follows: (1) (a)—ss. 119.52, 120.44 and part of 134.20; (1) (b)—ss. 119.53 and 120.45; (1) (c)—ss. 119.54, 120.46 and part of 134.20; (1) (d)—s. 119.55; (1) (e)—ss. 119.56 and part of 134.20; (1) (f)—ss. 119.58 and part of 134.20; (1) (g)—ss. 119.57, 120.47 and 120.48.

Because the 3 groups of statutory provisions consolidated in the above section differ somewhat in detail, often without apparent reason, the consolidation necessarily involves a few changes in the law, principally with regard to the statement of the required criminal intent. In requiring proof of intent to defraud, the revised section generally follows the pattern set by the UBLA. This is considered proper in view of the rather large penalty which could be imposed and in view of the fact that the commercial code contains complete provisions for civil liability for damages which should serve as a deterrent to minor and technical violations of rules of law relating to warehouse receipts and bills of lading. [Bill 1-S]

134.205 History: 1963 c. 158; Stats. 1963 s. 134.205.

Legislative Council Note, 1963: Subsections (1), (2) and (3) restate s. 119.03 of the statutes; subsection (4) is from s. 119.59, the requirement of intent to defraud having been added. Both of the present sections are repealed by this bill. [Bill 1-S]

134.21 History: 1905 c. 281 s. 1; Supl. 1906 s. 4470a; 1925 c. 4; Stats. 1925 s. 343.721; 1955 c. 696 s. 141; Stats. 1955 s. 134.21.

134.25 History: 1911 c. 316; Stats. 1911 s. 4432—1; 1925 c. 4; Stats. 1925 s. 343.331; 1955 c. 696 s. 94; Stats. 1955 s. 134.25.

134.26 History: 1911 c. 316; Stats. 1911 s. 4432—2; 1925 c. 4; Stats. 1925 s. 343.332; 1955 c. 696 s. 95; Stats. 1955 s. 134.26.

134.27 History: 1911 c. 316; Stats. 1911 s. 4432—3; 1925 c. 4; Stats. 1925 s. 343.333; 1955 c. 696 s. 96; Stats. 1955 s. 134.27.

134.28 History: 1911 c. 316; Stats. 1911 s. 4432—4; 1925 c. 4; Stats. 1925 s. 343.334; 1955 c. 696 s. 97; Stats. 1955 s. 134.28.

134.29 History: 1911 c. 316; Stats. 1911 s. 4432—5; 1925 c. 4; Stats. 1925 s. 343.335; 1955 c. 696 s. 98; Stats. 1955 s. 134.29.

134.30 History: 1911 c. 316; Stats. 1911 s. 4432—6; 1925 c. 4; Stats. 1925 s. 343.336; 1955 c. 696 s. 99; Stats. 1955 s. 134.30.

134.31 History: 1911 c. 316; Stats. 1911 s. 4432—7; 1925 c. 4; Stats. 1925 s. 343.337; 1955 c. 696 s. 100; Stats. 1955 s. 134.31.

134.32 History: 1911 c. 316; Stats. 1911 s. 4432—8; 1925 c. 4; Stats. 1925 s. 343.338; 1955 c. 696 s. 101; Stats. 1955 s. 134.32.

134.33 History: 1937 c. 230; Stats. 1937 s. 343.339; 1951 c. 261 s. 10; 1955 c. 696 s. 102; Stats. 1955 s. 134.33.

134.35 History: 1915 c. 212; Stats. 1915 s. 1636p—10; 1923 c. 291 s. 3; Stats. 1923 s. 175.05; 1955 c. 696 s. 40; Stats. 1955 s. 134.35.

134.36 History: 1851 c. 92 s. 19; R. S. 1858 c. 76 s. 19; R. S. 1858 c. 77 s. 2, 5; 1872 c. 54; R. S. 1878 s. 4557; Stats. 1898 s. 4557; 1925 c. 4; Stats. 1925 s. 348.36; 1955 c. 696 s. 252; Stats. 1955 s. 134.36.

134.37 History: 1901 c. 259 s. 1; Supl. 1906 s. 4557a; 1925 c. 4; Stats. 1925 s. 348.361; 1955 c. 696 s. 253; Stats. 1955 s. 134.37.

134.38 History: 1901 c. 259 s. 2; Supl. 1906 s. 4557b; 1911 c. 663 s. 478; 1925 c. 4; Stats. 1925 s. 348.362; 1955 c. 696 s. 254; Stats. 1955 s. 134.38.

134.39 History: 1881 c. 162; Ann. Stats. 1889 s. 4558; Stats. 1898 s. 4558; 1911 c. 319; 1925 c. 4; Stats. 1925 s. 348.37; 1955 c. 696 s. 255; Stats. 1955 s. 134.39.

134.40 History: R. S. 1858 c. 77 s. 5; R. S. 1878 s. 4559; 1885 c. 447; Ann. Stats. 1889 s. 4559; Stats. 1898 s. 4559; 1901 c. 284 s. 1; Supl. 1906 s. 4559; 1925 c. 4; Stats. 1925 s. 348.38; 1955 c. 696 s. 256; Stats. 1955 s. 134.40.

A person who connects a private telephone line with the line of a public utility may be prosecuted under 348.38, Stats. 1929, for interfering with telephone lines. 20 Atty. Gen. 126.

134.41 History: 1907 c. 669; Stats. 1911 s. 4470h; 1925 c. 4; Stats. 1925 s. 343.724; 1955 c. 696 s. 144; Stats. 1955 s. 134.41.

134.45 History: 1935 c. 307; Stats. 1935 s. 348.53; 1955 c. 696 s. 285; Stats. 1955 s. 134.45.

134.50 History: 1927 c. 274; Stats. 1927 s. 175.10; 1955 c. 696 s. 42; Stats. 1955 s. 134.50.

134.52 History: 1913 c. 385; Stats. 1913 s. 4446e; 1923 c. 108 s. 215; 1923 c. 253; Stats.

1923 s. 4446h; 1925 c. 4, 69; Stats. 1925 s. 343.488; 1955 c. 696 s. 128; Stats. 1955 s. 134.52; 1969 c. 459.

134.57 History: 1931 c. 165; Stats. 1931 s. 348.49; 1955 c. 696 s. 283; Stats. 1955 s. 134.57.

134.58 History: 1893 c. 163; Stats. 1898 s. 4575b; 1925 c. 4; Stats. 1925 s. 348.472; 1955 c. 696 s. 274; Stats. 1955 s. 134.58.

134.60 History: 1931 c. 404; Stats. 1931 s. 348.386 (3); 1935 c. 550 s. 414; 1955 c. 652 s. 60; 1955 c. 696 s. 262; Stats. 1955 s. 134.60; 1969 c. 276 s. 588 (1).

The licensing provision of 348.386 (3), Stats. 1945, is applicable to one who ships or transports evergreen or coniferous trees, branches, boughs, bushes, saplings or shrubs outside the county where they were cut without regard to whether such trees, etc. were cut from his own land or from the land of someone else. 34 Atty. Gen. 433.

134.65 History: 1897 c. 329; Stats. 1898 s. 4608f; 1905 c. 82; Supl. 1906 s. 4608f; 1915 c. 139; 1919 c. 385; 1925 c. 4; Stats. 1925 s. 352.50 (2) to (5); 1943 c. 177 s. 19; 1955 c. 575 s. 32; 1955 c. 696 s. 304, 305; Stats. 1955 s. 134.65; 1965 c. 67.

Revisor's Note, 1965: The old provision provided for a transfer of licenses if the premises were sold. This draft prohibits any transfer.

Sub. (4) is new. Preservation of records of receipts of cigarettes will aid enforcement of the tax law. [Bill 112-S]

Certain articles manufactured from tobacco and designated "little cigars" are not cigarettes within the meaning of sec. 4608f, Stats. 1898, as amended. State v. Goodrich, 133 W 242, 113 NW 388. See also State v. Sbragia, 138 W 579, 119 NW 290.

134.67 History: 1969 c. 426; Stats. 1969 s. 134.67.

134.71 History: 1969 c. 395; Stats. 1969 s. 134.71.

CHAPTER 137.

Notaries and Commissioners of Deeds.

137.01 History: R. S. 1849 c. 9 s. 57 to 59, 63 to 65; R. S. 1849 c. 131 s. 14; 1856 c. 116 s. 1 to 3; R. S. 1858 c. 12 s. 1 to 3, 7 to 9, 11, 12; R. S. 1858 c. 133 s. 19; 1867 c. 110; 1870 c. 38; 1877 c. 138; R. S. 1878 s. 173 to 175, 177, 179 to 181; 1879 c. 194 s. 2; 1881 c. 20; Ann. Stats. 1889 s. 173 to 175, 177, 179 to 181; Stats. 1898 s. 173 to 175, 177, 179 to 181; 1901 c. 38 s. 1, 2; Supl. 1906 s. 176a, 176b; 1907 c. 435; 1921 c. 13 s. 2 to 7; Stats. 1921 s. 1636—226; 1923 c. 291 s. 3; Stats. 1923 s. 137.01; 1927 c. 359; 1945 c. 426; 1955 c. 171; 1957 c. 610; 1959 c. 343; 1965 c. 44, 365; 1969 c. 154.

A notary public, though required to reside in a particular county, is a state officer and may act as notary throughout the state. Maxwell v. Hartmann, 50 W 660, 7 NW 103.

The courts take judicial notice of the appointments of notaries public. Ernst v. State, 181 W 155, 193 NW 978.

If a notary public affixes a false certificate to a real estate mortgage the measure of dam-