

meets the requirements of 160.03 (5), Stats. 1953, whether the health officer serves full time or only part time. 42 Atty. Gen. 212.

Under 160.03 (5), Stats. 1955, the state board of health may issue checks only to cities and counties for inspections and investigational services of local health departments. No checks may be issued directly to the local health department. 45 Atty. Gen. 265.

160.04 History: 1913 c. 648; Stats. 1913 s. 1408m—10 sub. 4; 1923 c. 448 s. 130; Stats. 1923 s. 160.04; 1945 c. 35; 1963 c. 270; 1969 c. 366 s. 117 (1) (a).

Revisor's Note, 1945: The amendment is from 160.18. (Bill 70-S, s. 4).

160.05 History: 1913 c. 548; Stats. 1913 s. 1408m—10 sub. 5; 1923 c. 448 s. 130; Stats. 1923 s. 160.05; 1945 c. 35; 1963 c. 270; 1969 c. 366 s. 117 (1) (a).

Revisor's Note, 1945: The amendment is from 160.19. (Bill 70-S, s. 5).

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

By this section the inferentially declared purpose of ch. 160, Stats. 1939, including the licensing provisions contained in 160.02, is protection of the public health and safety. State ex rel. F. W. Woolworth Co. v. State Board of Health, 237 W 638, 298 NW 183.

160.055 History: 1949 c. 440; Stats. 1949 s. 160.055; 1969 c. 276 s. 584 (1) (b).

160.06 History: 1913 c. 648; Stats. 1913 s. 1408m—10 sub. 6; 1923 c. 448 s. 130; Stats. 1923 s. 160.06; 1945 c. 35; 1963 c. 270; 1969 c. 366 s. 117 (1) (a).

Revisor's Note, 1945: The amendment is from 160.20. [Bill 70-S, s. 6]

160.07 History: 1947 c. 426; Stats. 1947 s. 343.08; 1955 c. 696 s. 83; Stats. 1955 s. 160.07; 1961 c. 166.

160.08 History: 1913 c. 648; Stats. 1913 s. 1408m—10 sub. 9; 1923 c. 448 s. 130; Stats. 1923 s. 160.08; 1945 c. 35; 1969 c. 366 s. 117 (1) (a).

160.09 History: 1913 c. 648; Stats. 1913 s. 1408m—10 sub. 11; 1923 c. 448 s. 130; Stats. 1923 s. 160.09; 1945 c. 35; 1969 c. 276 s. 584 (1) (b).

160.10 History: 1913 c. 648; Stats. 1913 s. 1408m—10 sub. 11; 1923 c. 448 s. 130; Stats. 1923 s. 160.10; 1945 c. 35; 1969 c. 276 s. 584 (1) (b); 1969 c. 366 s. 117 (1) (a).

160.21 History: 1937 c. 112; Stats. 1937 s. 160.21; 1945 c. 35; 1969 c. 366 s. 117 (1) (a).

Revisor's Note, 1945: 160.21 is made general. Doubtless the board could always revoke hotel permits for cause. (Bill 70-S, s. 17.)

The state board of health may refuse to issue or renew a restaurant permit where the requirements of the statutes and rules of the board have not been met, and such annual permits may likewise be suspended or revoked at any time for proper cause in the manner provided by the rules of the board. 39 Atty. Gen. 100.

160.22 History: 1937 c. 112; Stats. 1937 s. 160.22; 1943 c. 375 s. 62; 1945 c. 35; 1969 c. 366 s. 117 (1) (a).

160.31 History: 1864 c. 318; R. S. 1878 s. 1725; Stats. 1898 s. 1725; 1913 c. 479; 1923 c. 291 s. 3; Stats. 1923 s. 131.01; 1945 c. 35; Stats. 1945 s. 160.31; 1953 c. 61.

Revisor's Note, 1945: At the suggestion of the board the law is changed as to the number of notices required. In modern parlance "hotelkeeper" has supplanted "innkeeper." See 160.01. [Bill 70-S, s. 21]

160.32 History: 1913 c. 479; Stats. 1913 s. 1725a; 1923 c. 291 s. 3; Stats. 1923 s. 131.02; 1945 c. 35; Stats. 1945 s. 160.32.

160.33 History: 1864 c. 318 s. 2; R. S. 1878 s. 1726; Stats. 1898 s. 1726; 1913 c. 479; 1923 c. 291 s. 3; Stats. 1923 s. 131.03; 1945 c. 35; Stats. 1945 s. 160.33.

The statutory limitation of liability to \$10 "for each box, bundle or package and contents, so placed under his care," does not apply to a package of goods such as a chamois bag containing jewelry. *Busley v. Hotel Wisconsin R. Co.* 166 W 294, 164 NW 826.

160.34 History: 1905 c. 198 s. 1, 2; Supl. 1906 s. 1727 a; 1911 c. 663 s. 305; 1923 c. 291 s. 3; Stats. 1923 s. 131.04; 1945 c. 35; Stats. 1945 s. 160.34; 1957 c. 97.

160.36 History: 1915 c. 77; Stats. 1915 s. 1727t; 1921 c. 524; 1923 c. 291 s. 3; Stats. 1923 s. 131.06; 1945 c. 35; Stats. 1945 s. 160.36; 1969 c. 366 s. 117 (1) (a).

Revisor's Note, 1945: The law is not changed except by eliminating the requirement in old 131.06 (1) that a schedule of rates of all rooms, with the number of each room and the price charged for each, must be displayed in the hotel lobby. This requirement is impractical, is not complied with in practice, and its repeal is suggested by the supervisor of the hotel and restaurant division of the state board of health. (Bill 70-S, s. 26)

160.37 History: 1957 c. 216; Stats. 1957 s. 160.37.

CHAPTER 161.

Narcotics and Dangerous Substances.

161.001 History: 1969 c. 384; Stats. 1969 s. 161.001.

161.01 History: 1935 c. 306; Stats. 1935 s. 161.01; 1941 c. 271; 1945 c. 47; 1955 c. 657; 1963 c. 57; 1969 c. 336 s. 176; 1969 c. 366 s. 117 (1) (j), (2) (a); 1969 c. 384.

Editor's Note: For foreign decisions construing the "Uniform Narcotic Drug Act" consult Uniform Laws, Annotated.

Paregoric is a narcotic drug. *Browne v. State*, 24 W (2d) 491, 129 NW (2d) 175, 131 NW (2d) 169.

161.02 History: 1935 c. 306; Stats. 1935 s. 161.02; 1951 c. 379; 1953 c. 566; 1955 c. 116; 1959 c. 349; 1961 c. 477; 1969 c. 366 s. 117 (2) (b).

On exercises of police power see notes to sec. 1, art. I.

The word "unlawful" in 161.02 (3) does not qualify the possession of a hypodermic syringe or needle. *Browne v. State*, 24 W (2d) 491, 129 NW (2d) 175, 131 NW (2d) 169.

A modicum or a small amount (which is to be understood in relationship to the nature of the drug) is sufficient to ground a conviction under this section. A modicum of an illegal drug need not be a usable amount, for the quantity of the drug possessed is not material. *State v. Dodd*, 28 W (2d) 643, 137 NW (2d) 465.

In a prosecution for the illegal sale of narcotic drugs contrary to 161.02 (1), Stats. 1963, a conviction based principally upon the testimony of an accomplice, a drug addict, will not be disturbed on appeal where such testimony was not inherently incredible and the jury, resolving the issue after rational consideration, could have concluded, as it did, that the offense charged was committed. *Tobar v. State*, 32 W (2d) 398, 145 NW (2d) 782.

161.03 History: 1935 c. 306; Stats. 1935 s. 161.03; 1969 c. 141; 1969 c. 366 s. 117 (2) (a).

161.04 History: 1935 c. 306; Stats. 1935 s. 161.04; 1969 c. 141; 1969 c. 366 s. 117 (2) (a).

161.05 History: 1935 c. 306; Stats. 1935 s. 161.05; 1941 c. 271.

161.06 History: 1935 c. 306; Stats. 1935 s. 161.06; 1955 c. 658.

161.07 History: 1935 c. 306; Stats. 1935 s. 161.07.

161.08 History: 1935 c. 306; Stats. 1935 s. 161.08; 1941 c. 271; 1953 c. 172; 1955 c. 658; 1959 c. 404; 1961 c. 340; 1963 c. 49; 1965 c. 620.

161.09 History: 1935 c. 306; Stats. 1935 s. 161.09; 1941 c. 271; 1969 c. 141; 1969 c. 366 s. 117 (2) (a); 1969 c. 384.

161.10 History: 1935 c. 306; Stats. 1935 s. 161.10.

161.11 History: 1935 c. 306; Stats. 1935 s. 161.11.

161.12 History: 1935 c. 306; Stats. 1935 s. 161.12.

161.13 History: 1935 c. 306; Stats. 1935 s. 161.13.

161.14 History: 1935 c. 306; Stats. 1935 s. 161.14; 1969 c. 141, 255, 384; 1969 c. 392 s. 57n.

161.15 History: 1935 c. 306; Stats. 1935 s. 161.15; 1969 c. 255; 1969 c. 336 s. 176.

161.16 History: 1935 c. 306; Stats. 1935 s. 161.16; 1969 c. 255.

161.17 History: 1935 c. 306; Stats. 1935 s. 161.17.

161.18 History: 1935 c. 306; Stats. 1935 s. 161.18; 1949 c. 262.

161.19 History: 1935 c. 306; Stats. 1935 s. 161.19; 1939 c. 271, 448; 1939 c. 517 s. 9b; 1969 c. 141, 336; 1969 c. 366 s. 117 (2) (a); 1969 c. 384; 1969 c. 392 ss. 57r, 84g; 1969 c. 424 s. 26.

161.20 History: 1935 c. 306; Stats. 1935 s. 161.20; 1951 c. 379; 1969 c. 384.

161.21 History: 1935 c. 306; Stats. 1935 s. 161.21.

161.23 History: 1935 c. 306; Stats. 1935 s. 161.23.

161.24 History: 1935 c. 306; Stats. 1935 s. 161.24.

161.25 History: 1935 c. 306; Stats. 1935 s. 161.25; 1951 c. 735.

161.26 History: 1935 c. 306; Stats. 1935 s. 161.26.

161.27 History: 1935 c. 306; Stats. 1935 s. 161.27.

161.271 History: 1891 c. 442; Stats. 1898 s. 4575a; 1925 c. 4; Stats. 1925 s. 348.471; 1955 c. 696 s. 273; Stats. 1955 s. 161.271.

161.28 History: 1961 c. 477; Stats. 1961 s. 161.28; 1969 c. 255 s. 65; 1969 c. 384.

While 161.28, Stats. 1967, uses the words "second offense" in providing for enhanced punishment, whereas 959.12 and 939.62 (the general repeater statutes) use the word "conviction", applicability of 161.28 in conformity with the general and majority rule requires that the word "offense" as used in 161.28 be construed as meaning "conviction". *State v. Midell*, 40 W (2d) 516, 162 NW (2d) 54.

161.29 History: 1969 c. 252; Stats. 1969 s. 161.29.

161.30 History: 1947 c. 424; Stats. 1947 s. 151.07; 1951 c. 261 s. 10; 1953 c. 391; 1959 c. 545; 1961 c. 601, 612; 1963 c. 146; 1965 c. 619; 1967 c. 93; 1969 c. 141; 1969 c. 336 ss. 103, 175 (5); 1969 c. 384 ss. 2, 16, 17, 18; Stats. 1969 s. 161.30.

Editor's Note: On the distinction between *Cannabis sativa L.* (designated as a narcotic in 161.01 (14), Stats. 1965) and *Cannabis indica* (designated as a poison in 151.10 (1), Stats. 1965) see *State v. Greene*, 40 W (2d) 88, 161 NW (2d) 239.

See note to 269.56 on justiciable controversy, citing *Wisconsin Pharmaceutical Asso. v. Lee*, 264 W 325, 58 NW (2d) 700.

See note to 450.04, citing 41 Atty. Gen. 23.

161.31 History: 1969 c. 384; Stats. 1969 s. 161.31.

161.32 History: 1969 c. 384; Stats. 1969 s. 161.32.

161.35 History: 1969 c. 384; Stats. 1969 s. 161.35.

161.45 History: 1969 c. 384; Stats. 1969 s. 161.45.

161.50 History: 1969 c. 463; Stats. 1969 s. 161.50.

161.51 History: 1969 c. 463; Stats. 1969 s. 161.51.

161.52 History: 1969 c. 463; Stats. 1969 s. 161.52.

161.54 History: 1969 c. 463; Stats. 1969 s. 161.54.

161.60 History: 1969 c. 384; Stats. 1969 s. 161.60.

161.61 History: 1969 c. 384; Stats. 1969 s. 161.61.

161.62 History: 1969 c. 384; Stats. 1969 s. 161.62.

161.63 History: 1969 c. 384; Stats. 1969 s. 161.63.

161.64 History: 1969 c. 384; Stats. 1969 s. 161.64.

161.65 History: 1969 c. 384; Stats. 1969 s. 161.65.

CHAPTER 162.

Pure Drinking Water.

162.01 History: 1935 c. 434, 553; Stats. 1935 s. 162.01; 1953 c. 596; 1955 c. 221 s. 50; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 588 (6).

162.02 History: 1935 c. 434, 553; Stats. 1935 s. 162.02; 1953 c. 596; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 588 (6).

162.03 History: 1935 c. 434, 553; Stats. 1935 s. 162.03; 1953 c. 596; 1965 c. 614 s. 57 (1); 1969 c. 276 s. 603 (5); 1969 c. 336 s. 176.

Acts of the examiner who conducted the hearing, in examining witnesses on occasion and going into some collateral issues not, however, included in the findings of the state board of health and not affecting the result, and in counseling with the assistant attorney general appearing on behalf of the board, were not prejudicial to the defendant and did not result in a denial of due process. Because certain findings of the board, not supported by the evidence, may have influenced the board in fixing the period of suspension provided for in its order, the matter is returned to the board for further consideration. *Gray Well Drilling Co. v. State Board of Health*, 263 W 417, 58 NW (2d) 64.

In a proceeding by the board on its own motion to suspend or revoke a well-drilling permit, as provided by 162.03 (2), neither the statutes nor the rules of the board require that the complaint be verified. The lack of provision for the filing of a demurrer was not prejudicial to the defendant and did not result in a denial of due process, since the allegations of the demurrer which the defendant attempted to file were repeated in its answer and all of the issues raised thereby were considered and preserved in the record. *Gray Well Drilling Co. v. State Board of Health*, 263 W 417, 58 NW (2d) 64.

162.04 History: 1935 c. 434, 553; Stats. 1935 s. 162.04; 1949 c. 555; 1953 c. 596; 1957 c. 546; 1965 c. 614 s. 57 (1).

Some of the law applicable to well-drilling contracts is stated in *Borg v. Downing*, 221 W 463, 266 NW 182.

One who drills wells on his own land for the use of lessees is not so engaged in the well-drilling industry as to be subject to 162.04.

One who contracts to construct for compensation is not subject to this section, where he sublets actual performance of work to a registered well driller, providing the contractor has not advertised or held himself out as a well driller. 27 Atty. Gen. 218.

Licensed plumbers are not exempt from the provisions in regard to pump installers. 42 Atty. Gen. 309.

Where an unregistered foreign corporation assumes the obligation to drill a water supply well by contract procured from a municipality by low bid, and proposes to assign said contract to another registered well driller for a valuable consideration, said corporation has "engaged in the industry of well drilling" within the meaning of that term as used in 162.04 (4). Further, the foreign corporation "held itself out" as a well driller in violation of 162.06. Validity of the assignment is a question of law for the legal advisor of the municipality. The sole concern of the state board of health is that the person which actually does the work has complied with 162.04. 44 Atty. Gen. 279.

162.047 History: 1935 c. 434, 553; Stats. 1935 s. 162.04 (4); 1953 c. 596 s. 11; Stats. 1953 s. 162.04 (5); 1957 c. 546 s. 3; Stats. 1957 s. 162.047.

162.05 History: 1935 c. 434, 553; Stats. 1935 s. 162.05; 1953 c. 596; 1965 c. 614 s. 57 (1).

162.06 History: 1935 c. 434, 553; Stats. 1935 s. 162.06; 1953 c. 596.

See note to sec. 6, art. I, on cruel punishments, citing 26 Atty. Gen. 15.

CHAPTER 164.

Uniform Machine Gun Act.

Editor's Note: For foreign decisions construing the "Uniform Machine Gun Act" consult Uniform Laws, Annotated.

164.01 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.01.

164.02 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.02.

164.03 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.03.

164.04 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.04.

164.05 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.05.

164.06 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.06.

164.07 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.07.

164.08 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.08.

164.09 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.09.

164.11 History: 1933 c. 76 s. 1; Stats. 1933 s. 164.11.

164.20 History: 1933 c. 359; Stats. 1933 s. 164.20.