

**409.507 History:** 1963 c. 158; Stats. 1963 s. 409.507.

#### CHAPTER 440.

##### Department of Regulation and Licensing.

**440.01 History:** 1969 c. 336 s. 156; Stats. 1969 s. 440.01.

**440.02 History:** 1969 c. 336 s. 156; Stats. 1969 s. 440.02.

**440.26 History:** 1919 c. 444; Stats. 1919 s. 1636—12m; 1923 c. 291 s. 3; Stats. 1923 s. 175.07; 1925 c. 289; 1931 c. 52; 1935 c. 405; 1957 c. 97; 1965 c. 377; 1969 c. 336 s. 151; 1969 c. 467; Stats. 1969 s. 440.26.

See note to sec. 1, art. I, on exercises of police power, and note to sec. 1, art. IV, on delegation of power, citing *Pinkerton v. Buech*, 173 W 433, 181 NW 125.

The requirement that a license to private detectives shall be issued to applicants of good character, competency, and integrity furnishes to the fire and police commissioners a standard for their guidance. *Pinkerton v. Buech*, 173 W 433, 181 NW 125.

A firm of private detectives, employed prior to the act, cannot recover for services performed after its passage and publication, where they have not complied with the provisions as to license and bond. *Andrews v. La Crosse R. Corp.* 196 W 622, 220 NW 214.

A license to act as a detective may be revoked by the secretary of state, and, after revocation, the licensee may not act as a detective. A person directly injured by the wilful or malicious act of such licensed person may sue on his bond. 9 Atty. Gen. 447.

A partnership detective agency having its office in another state, but desiring to act as or advertise itself as a private detective agency in this state, must make application for a license. 10 Atty. Gen. 251.

See note to 192.47, citing 10 Atty. Gen. 899.

Where a partnership licensed as a detective agency is dissolved, the partner continuing the business as sole proprietor must obtain a new license. 11 Atty. Gen. 267.

The license does not give the right to carry concealed weapons. 11 Atty. Gen. 373.

A night watchman is not a detective. 11 Atty. Gen. 474.

A license issued to a nonresident does not authorize him to open a branch office in this state. In order that a licensed nonresident may take a partner and open a branch office, application must be made by the partnership, naming the city in which such office is to be established. 12 Atty. Gen. 3.

A nonresident may be licensed as a private detective in Wisconsin, but he is required to establish a place of business or office in the state. 14 Atty. Gen. 492.

Officers of a corporation or members of a partnership operating a private detective agency who act as private detectives in their individual capacities must secure licenses. 19 Atty. Gen. 60.

One who solicits business for a private detective agency in this state is required to have a license. 19 Atty. Gen. 155.

The exception of "any watchman privately

employed" from the detective license law refers to an employe rather than to an independent contractor. 20 Atty. Gen. 590.

A copartnership may be licensed as a detective agency under 175.07, upon filing of but one bond and payment of \$200 fee as principal. Members of a copartnership operating a private detective agency who act as private detectives in their individual capacities must secure individual licenses under 175.07 (5). 27 Atty. Gen. 686.

Employees of a corporation engaged in making investigations and reports with respect to efficiency and honesty of employes of a certain business are private detectives within 175.07 and are required to be licensed and bonded. 28 Atty. Gen. 485.

A merchant patrol agency contracting for a monthly fee to inspect premises between certain hours of the night, seeing that doors are locked, etc., is a "private guard" within the meaning of 175.07. 36 Atty. Gen. 164.

Persons engaged in posing as patrons for the purpose of checking honesty, efficiency and neatness of employes and the condition of the premises of hotels, restaurants and theaters and rendering reports thereon to the employer are required to be licensed as "private detectives" under 175.07. 36 Atty. Gen. 322.

An agency and employes thereof engaged in the business of theater checking must be licensed as private detectives. 37 Atty. Gen. 469.

Open checking by a third-party independent contractor of theater attendance and box office receipts with full knowledge of all parties observed and in accordance with specific terms of the contract between distributor and exhibitor is not a private detective activity subject to license. Persons engaged in "blind checking," or in making any observation and reports outside the scope of the distributor-exhibitor contract are private detectives and must be licensed. 37 Atty. Gen. 542.

Persons whose sole activities consist of obtaining ticket stubs from theaters at sporadic intervals and forwarding such stubs to others need not be licensed as private detectives. 40 Atty. Gen. 497.

**440.41 History:** 1961 c. 600; Stats. 1961 s. 175.13; 1969 c. 276, 330; 1969 c. 336 ss. 153, 154; Stats. 1969 s. 440.41.

A charitable organization which received contributions in 1961 must file a report as provided in 175.13, Stats. 1961. 51 Atty. Gen. 7.

175.13, Stats. 1961, is not applicable to an arm or agency of the state. It does apply to private nonprofit units engaged in solicitation of contributions to aid the university. 51 Atty. Gen. 14.

**440.61 History:** 1939 c. 370, 486; Stats. 1939 s. 129.11; 1943 c. 229; Stats. 1943 s. 110.10; 1951 c. 261 s. 10; 1953 c. 631; 1955 c. 316; 1969 c. 336 ss. 13, 14; Stats. 1969 s. 440.61.

On peddlers, truckers, transient merchants, secondhand dealers and showmen see notes to 440.81 to 440.96.

The exception to the itinerant merchant trucker law contained in 129.11 (2) (b), Stats.

1941, does not apply to a dealer in seasonal fruits and vegetables who does not maintain an established place of business throughout the year. 31 Atty. Gen. 153.

Truckers acting on prior orders, purchasing, transporting and reselling fruits and vegetables to retailers and others whose net loads at any time exceed 3,000 pounds, are subject to 110.10, Stats. 1945. Truckers, operating as described above, whose net loads never exceed 3,000 pounds, are not peddlers or truckers under 129.01. 35 Atty. Gen. 372.

A trucker who buys scrap iron or other so-called junk, then resells same to a junk dealer, and who himself has no junk yard, must have a license if he at any time carries a vehicle net load exceeding 3,000 pounds and has no established place of business (see 110.10 (2) (b) ), and is not licensed as a peddler or a motor fuel wholesaler (see 110.10 (2) (d), (e)). 41 Atty. Gen. 4.

**440.81 History:** 1870 c. 72; 1876 c. 395; 1877 c. 296; R. S. 1878 s. 1570; 1881 c. 100; 1882 c. 218; 1885 c. 263; 1889 c. 510; Ann. Stats. 1889 s. 1570; 1895 c. 81; 1897 c. 84; Stats. 1898 s. 1570; 1901 c. 341 s. 1; 1905 c. 490 s. 1; Supl. 1906 s. 1570; 1911 c. 663 s. 259; 1923 c. 291 s. 3; Stats. 1923 s. 129.01; 1931 c. 370; 1933 c. 200 s. 2; Stats. 1933 ss. 129.01, 129.045; 1935 c. 550 ss. 371, 372; Stats. 1935 s. 129.01; 1939 c. 370; 1945 c. 111, 446; 1947 c. 259; 1953 c. 92; 1969 c. 336 ss. 29, 30; 1969 c. 392 ss. 84, 87g; Stats. 1969 s. 440.81.

On equality and on exercises of police power and taxing power see notes to sec. 1, art. I; on the rule of taxation (privilege taxes) see notes to sec. 1, art. VIII; on municipal home rule see notes to sec. 3, art. XI; and on itinerant merchant truckers see notes to 440.61.

One who goes about from place to place, selling at retail, from house to house, goods which he carries with him, is a peddler, even though he may have a fixed business domicile and may carry with him only a part of his stock of goods. *Dewitt v. State*, 155 W 249, 144 NW 253.

Where bakery companies made daily deliveries to regular customers through salesmen who drove company trucks along established routes and who received regular salaries with bonuses according to volume of sales and who were not authorized to sell to persons not on their route or to new customers at the time of solicitation of such customers, the companies and their salesmen were not peddlers so as to be required to be licensed. *National Baking Co. v. Zabel*, 227 W 93, 277 NW 691.

The following are within the scope of the term "peddler", as used in the peddlers' licensing law: a resident of this state who purchases patent medicines manufactured in another state and brings them into this state and peddles them from house to house (1902 Atty. Gen. 152); one who goes from vessel to vessel, using a gasoline launch, and selling goods at retail (1904 Atty. Gen. 435); one who is without an established shop or store and who sells ice cream in cones, the ice cream being obtained from the manufacturer (1910 Atty. Gen. 543); one who manufactures animal remedies, travels from place to place carrying such products with him, and offers

for sale and sells such products at retail to customers (2 Atty. Gen. 625); one who travels from house to house and sells goods under instalment contracts, which state that the goods are leased merely, but the ultimate purpose of which is to bring about sales (3 Atty. Gen. 609); one who travels from house to house endeavoring to make sales but in fact making none (4 Atty. Gen. 1088); one who carries medicine with him, going from house to house, leaving the same where he can, returning later and collecting for what has been used (5 Atty. Gen. 201); one who travels about, from place to place, taking orders and returning presently to make delivery, under circumstances indicating clearly that his purpose was to evade the law (5 Atty. Gen. 204); one who goes from place to place selling patented articles obtained from a manufacturer (5 Atty. Gen. 544); one who vends fish from door to door (7 Atty. Gen. 356); one who sells Bibles and tracts from a pack at a street corner (8 Atty. Gen. 399); one selling merchandise, at street corners, from a truck on which he travels from place to place (9 Atty. Gen. 496); one who maintains a stock of groceries and other articles on his farm and who travels from house to house selling such merchandise from his wagon (10 Atty. Gen. 174); one who goes from place to place selling or offering to sell electrical appliances which he carries with him (14 Atty. Gen. 154); drivers of trucks employed by a bakery firm to make house-to-house canvasses selling bread (15 Atty. Gen. 100); the driver of a truck with a miniature store carrying a complete line of groceries, following established routes, and having a written list of customers to call upon (25 Atty. Gen. 498); a dealer in household supplies (such as extracts, spices, coffee, toilet articles, medicines, and the like), whose sales are made from house to house from stock carried in a truck, even though permission to call has previously been granted (27 Atty. Gen. 732); a person who carries from place to place a variety of items of nonperishable merchandise for sale at retail and without advance orders, notwithstanding that a large proportion of the business is not peddling (35 Atty. Gen. 419).

The following are not within the scope of the term "peddler", as used in the peddlers' licensing law: established local merchants who sell goods in surrounding trade territory, delivering from wagons and at the same time taking orders for further deliveries (1904 Atty. Gen. 94; 4 Atty. Gen. 608; 7 Atty. Gen. 560); a manufacturer who sends out one or more wagons once or twice a year to close out surplus stock to dealers (1906 Atty. Gen. 446); a company having a store and warehouse and which takes orders by telephone or otherwise and delivers to customers the merchandise so ordered (1906 Atty. Gen. 519); one who makes and sells lemonade at a lemonade stand (1912 Atty. Gen. 717); one who sells merchandise at wholesale, to dealers (3 Atty. Gen. 611; 6 Atty. Gen. 605; 8 Atty. Gen. 32); one who goes from place to place, taking orders for goods, and afterwards delivers them (3 Atty. Gen. 618); a farmer who occasionally goes from house to house, in a city, disposing of farm produce (5 Atty. Gen. 824; 6 Atty. Gen.

618; 19 Atty. Gen. 496); a farmer who sells to other farmers surplus feed which he has had shipped in carload lots primarily for his own use (10 Atty. Gen. 174); milk dealers who take their product from house to house, if sales are ordinarily made in pursuance of prior orders with only occasional exceptions (14 Atty. Gen. 287); a retail merchant who carries goods from house to house, if sales are ordinarily made in pursuance of prior orders, with only occasional exceptions (14 Atty. Gen. 406); a baking company, operating a local plant, which distributes its baked goods from such plant to its regular customers on standing orders for its products, through its servicemen who are drivers of delivery vehicles, and who are prohibited from selling to others than such regular customers (15 Atty. Gen. 537); a person engaged in the business of taking tintype pictures of people, developing and delivering them to the persons on the street where the pictures were taken (27 Atty. Gen. 278); one who operates a lunch wagon in a trailer attached to his automobile and who travels about from place to place (35 Atty. Gen. 315).

Sales by sample upon orders taken in this state for goods to be manufactured in and shipped from another state are interstate commerce and are not subject to sec. 1570, Stats. 1898, as amended. 1902 Atty. Gen. 152. Accord: 1904 Atty. Gen. 110. Compare: 1902 Atty. Gen. 222.

A peddler's license does not authorize selling goods upon a railroad train in violation of reasonable regulations by the railroad company. 1902 Atty. Gen. 155.

The method of doing business and not merely the fact that a baker has established regular routes for sale of his goods is the deciding fact in determining whether he is a peddler within the meaning of the statute. 21 Atty. Gen. 158.

Nursery products are within the scope of the term "agricultural product" in the exemption provision of 129.01, Stats. 1933. 24 Atty. Gen. 286.

A person who employs several licensed peddlers is required to obtain a peddler's license in his name even though he himself does no peddling. 41 Atty. Gen. 4.

**440.82 History:** 1870 c. 72; R. S. 1878 s. 1572; 1889 c. 510; Ann. Stats. 1889 s. 1572; 1895 c. 81; Stats. 1898 s. 1572; 1905 c. 490 s. 2; Supl. 1906 s. 1571; 1911 c. 456; 1911 c. 664 s. 85; 1923 c. 291 s. 3; Stats. 1923 s. 129.02; 1931 c. 273; 1933 c. 356, 373; 1933 c. 450 s. 8; 1933 c. 470 s. 16; 1933 c. 494 s. 12; 1935 c. 104, 346; 1935 c. 550 s. 373; 1935 c. 551 s. 4; 1939 c. 513 s. 34; 1945 c. 588; 1957 c. 189, 630, 672; 1969 c. 336 s. 30; Stats. 1969 s. 440.82.

The words "recognized by the United States veterans' bureau", in 129.02(2), Stats. 1937, modify the entire phrase and no other certificate of disability may be substituted in lieu thereof. 28 Atty. Gen. 9.

A state peddler's license issued to a war veteran pursuant to 129.02 (2), Stats. 1939, is valid as to such veteran only, not to members of his family, under 129.06. 29 Atty. Gen. 253.

**440.83 History:** 1870 c. 72; 1872 c. 177; R. S. 1878 ss. 1571, 1579; 1889 c. 172, 510; Ann. Stats.

1889 ss. 1571, 1579, 1579a; Stats. 1898 ss. 1571, 1579; 1901 c. 341; 1905 c. 490 ss. 3, 11; Supl. 1906 ss. 1572, 1580; 1911 c. 663 s. 259; 1917 c. 670; 1923 c. 291 s. 3; Stats. 1923 ss. 129.03, 129.11; 1933 c. 200; 1935 c. 550 ss. 374, 375; Stats. 1935 s. 129.03; 1969 c. 336 s. 30; 1969 c. 392 s. 87g; Stats. 1969 s. 440.83.

**440.84 History:** 1870 c. 72; 1874 c. 141; R. S. 1878 s. 1575; 1881 c. 100; Ann. Stats. 1889 s. 1575; Stats. 1898 s. 1575; 1905 c. 490 s. 4; Supl. 1906 s. 1573; 1907 c. 634; 1911 c. 456; 1911 c. 664 s. 85; 1913 c. 772 s. 127; 1917 c. 670; 1923 c. 291 s. 3; Stats. 1923 s. 129.04; 1935 c. 550 s. 376; 1969 c. 336 s. 30; Stats. 1969 s. 440.84.

**440.85 History:** 1870 c. 72; 1876 c. 395; 1877 c. 295; R. S. 1878 s. 1570; 1881 c. 100; 1882 c. 218; 1885 c. 263; 1889 c. 510; Ann. Stats. 1889 s. 1570; Stats. 1898 s. 1570; 1901 c. 341 s. 3; 1903 c. 393 s. 1; 1905 c. 490 s. 5; Supl. 1906 s. 1574; 1911 c. 663 s. 259; 1917 c. 670; 1923 c. 291 s. 3; Stats. 1923 s. 129.05; 1925 c. 180; 1933 c. 200; 1935 c. 550 s. 377; 1947 c. 259; 1949 c. 307; 1953 c. 92, 509; 1955 c. 247; 1969 c. 336 s. 30; 1969 c. 392 s. 84; Stats. 1969 s. 440.85.

The purpose of ch. 490, Laws 1905, is to tax for revenue and to regulate under the police power the business of transient merchants and not to destroy it. The license fee per day must be reasonable and not a prohibitive or confiscatory exaction. The imposition of the maximum rate by a city upon a clothing merchant during a dull season in a city of 4,500 inhabitants was unreasonable. *Monroe v. Endelman*, 150 W 621, 138 NW 70.

The following are within the scope of the term "transient merchant", as used in the statute governing the licensing of transient merchants: a company which engages, transiently, in the sale of a stock of goods and store fixtures (1910 Atty. Gen. 551); one who temporarily sells ice cream, popcorn, fruits and cigars from stands (1912 Atty. Gen. 719); one who brings goods to a city and sells them from freight cars or boats (2 Atty. Gen. 616); one who, not being a merchant of the locality, buys a stock of merchandise of a bankrupt concern and proceeds to sell the same (5 Atty. Gen. 524); one who, although a resident of the place where he engages in selling merchandise, does so on a temporary basis (6 Atty. Gen. 561; 37 Atty. Gen. 39); a music company, having a permanent office in one city, which establishes a temporary outlet in another (13 Atty. Gen. 629); one who opens a store and sells merchandise only during a holiday season (14 Atty. Gen. 572); one who resides 8 miles outside of a city and who sells feed and other mill supplies out of a freight car within the city limits (15 Atty. Gen. 343); a dealer in automobiles, who has an established place of business in a city, and who transports automobiles to another city for sale on a vacant lot (19 Atty. Gen. 273); a person selling merchandise from a stationary truck at the same place and time each day (22 Atty. Gen. 714); a nonresident, temporarily doing business in this state under a profit-sharing agreement with a citizen of the state, when he aids in the sale of goods here (22 Atty. Gen. 860); a person who leases a building by the month and conducts a sale there only one night a

month, having only a small stock of merchandise there the balance of the month, and carrying on the same type of business in other places (43 Atty. Gen. 257); an itinerant photographer, who operates temporarily in established business places, delivering photographs for a nominal price or without charge (47 Atty. Gen. 239); lessees of sites, at a place called 7 Mile Fair, who sell manufactured products at such sites (51 Atty. Gen. 138).

The following are not within the scope of the term "transient merchant", as used in the statute governing the licensing of transient merchants: one who takes orders by sample, which orders are filled afterward by his employes (1910 Atty. Gen. 544); an oculist or optician, who fits and sells glasses, temporarily (3 Atty. Gen. 613); one who sells lemonade, ice cream, etc., of his own manufacture, at temporary stands (3 Atty. Gen. 614; 4 Atty. Gen. 683; 35 Atty. Gen. 315); one who ships goods into the state, and delivers them from a freight car, pursuant to orders previously taken (5 Atty. Gen. 270); one who conducts a sale of livestock (6 Atty. Gen. 254; 18 Atty. Gen. 341); one who engages in promoting a wholesale and retail fireworks business throughout the year, but who operates retail stands only during a short period preceding the Fourth of July (12 Atty. Gen. 318); one who owns a store, pays taxes on the same, and sells merchandise from said store for a short period in every year (22 Atty. Gen. 454); a person moving about from place to place and fashioning keys according to order at a work bench (22 Atty. Gen. 686); persons engaged in cleaning and laundry businesses (24 Atty. Gen. 521); one who operates a lunch wagon in a trailer attached to his automobile and who travels about from place to place (35 Atty. Gen. 276); farmers who sell agricultural produce grown by them in this state (35 Atty. Gen. 315; 51 Atty. Gen. 138); a person engaging temporarily in the restaurant business (39 Atty. Gen. 271).

Under sec. 1574, Stats. 1913, a corporation may not be licensed as a transient merchant. 3 Atty. Gen. 605.

Upon proper application, a city council must grant a license to a transient merchant who has a state license and who has paid or tendered the fee required by the local ordinance. Transient merchants may not sell at auction unless licensed so to do, in cities or villages which have ordinances prohibiting unlicensed auctions, or in towns. 12 Atty. Gen. 39.

A nonresident selling and delivering merchandise direct from truck to dealers only is not liable for state license as transient merchant or peddler. 14 Atty. Gen. 315.

Under 129.05, Stats. 1947, a transient merchant may operate more than one stand in a municipality on a single license. 37 Atty. Gen. 39.

Transient merchants are not exempted from license law because they render some personal service in connection with their sales. 37 Atty. Gen. 356.

**440.86 History:** 1870 c. 72; 1876 c. 395; 1877 c. 296; R. S. 1878 s. 1576; 1881 c. 100; 1889 c. 510; Ann. Stats. 1889 s. 1576; Stats. 1898 s. 1576; 1901 c. 341 s. 4; 1905 c. 490 s. 6; Supl. 1906

s. 1575; 1911 c. 663 s. 260; 1923 c. 165; 1923 c. 291 s. 3; Stats. 1923 s. 129.06; 1935 c. 550 s. 378; 1969 c. 336 s. 30; 1969 c. 392 s. 87g; Stats. 1969 s. 440.86.

One who employs an agent to operate a refreshment stand or booth which travels from place to place must take out a peddler's license, and his agent must also take out such license. One who operates several businesses subject to licensing need take out only one license. 12 Atty. Gen. 373.

If 2 or more persons, whether copartners or otherwise, engage in the business of a transient merchant, each of them must obtain a license. 41 Atty. Gen. 4.

An employe of a transient merchant licensee might be required to obtain a license himself if he is in fact the resident manager for an absentee licensee and is conducting the business. 41 Atty. Gen. 4.

**440.87 History:** 1870 c. 72; R. S. 1878 s. 1583; 1879 c. 194; 1889 c. 510; Ann. Stats. 1889 s. 1583; Stats. 1898 s. 1583; 1899 c. 52 s. 1; 1899 c. 351 s. 24; 1901 c. 341 s. 5; 1905 c. 490 s. 7; Supl. 1906 s. 1576; 1911 c. 663 s. 259; 1923 c. 291 s. 3; Stats. 1923 s. 129.07; 1931 c. 273; 1933 c. 200; 1935 c. 550 s. 379; 1969 c. 336 s. 30; 1969 c. 487; Stats. 1969 s. 440.87.

A municipal ordinance that transient merchants, traders and dealers selling from house to house must have a license does not apply to a traveling agent selling by sample only, soliciting orders to be filled by his principal in another city. *Wausau v. Heideman*, 119 W 244, 96 NW 549.

A disabled war veteran is subject to a municipal peddlers' license ordinance, notwithstanding this section until he has obtained a state license under 129.02 (2). 29 Atty. Gen. 253.

A county board does not have authority to enact a county-wide ordinance licensing peddlers. 46 Atty. Gen. 184.

**440.88 History:** 1905 c. 490 s. 8; Supl. 1906 s. 1577; 1911 c. 663 s. 259; 1917 c. 670; 1923 c. 291 s. 3; Stats. 1923 s. 129.08; 1925 c. 199 s. 1; 1935 c. 550 s. 380; 1959 c. 542; 1969 c. 336 s. 30; Stats. 1969 s. 440.88.

**440.89 History:** 1870 c. 72; 1876 c. 395; 1877 c. 296; R. S. 1878 s. 1576; 1881 c. 100; 1889 c. 510; Ann. Stats. 1889 s. 1576; Stats. 1898 s. 1576; 1905 c. 490 s. 9; Supl. 1906 s. 1578; 1911 c. 456; 1911 c. 664 s. 85; 1923 c. 165; 1923 c. 291 s. 3; Stats. 1923 s. 129.09; 1925 c. 199 s. 2; 1933 c. 200; 1935 c. 550 s. 381; 1969 c. 336 s. 30; Stats. 1969 s. 440.89.

**440.90 History:** 1878 c. 5; R. S. 1878 ss. 1584a, 1584b; Stats. 1898 ss. 1584a, 1584b; 1905 c. 490 ss. 22, 23; Supl. 1906 ss. 1584g, 1584h; 1923 c. 291 s. 3; Stats. 1923 ss. 129.22, 129.23; 1935 c. 550 ss. 382, 383; Stats. 1935 s. 129.10; 1969 c. 336 s. 30; Stats. 1969 s. 440.90.

Villages and towns are not authorized, under secs. 1584g-1584i, Stats. 1913, to require licenses, except on days of public assemblages. 2 Atty. Gen. 611.

**440.91 History:** 1878 c. 5; R. S. 1878 s. 1584c; Stats. 1898 s. 1584c; 1901 c. 341 s. 8; 1905 c. 490 s. 24; Supl. 1906 s. 1584i; 1923 c. 291 s.

3; Stats. 1923 s. 129.24; 1935 c. 550 s. 384; Stats. 1935 s. 129.12; 1969 c. 336 s. 30; Stats. 1969 s. 440.91.

**440.92 History:** 1870 c. 72; 1877 c. 296; R. S. 1878 s. 1574; Stats. 1898 s. 1574; 1905 c. 490 s. 15; Supl. 1906 s. 1584; 1907 c. 643; 1911 c. 663 s. 262; 1917 c. 670; 1923 c. 165, 278; 1923 c. 291 s. 3; Stats. 1923 s. 129.14; 1925 c. 199 s. 4; 1935 c. 550 s. 385; 1963 c. 406; 1969 c. 276 s. 584 (1) (b); 1969 c. 336 s. 30; Stats. 1969 s. 440.92.

A wild west show is a circus and must pay a license fee. 2 Atty. Gen. 622.

A carnival or wild west show is not exempt from payment of the license fee because it is engaged by a park company which owns the grounds upon which the carnival or wild west show is exhibited. 5 Atty. Gen. 583.

A carnival company is required to pay a license fee of \$100, in general, and \$20 in addition for each Ferris wheel, each ocean wave and each merry-go-round, but not for a side show, as that term applies to a circus. 8 Atty. Gen. 495.

A vaudeville, exhibiting for money, trained or wild animals, must have a license. 11 Atty. Gen. 163.

The fees provided for carnivals and other shows are collectible by the state, not by the fair association on whose grounds a carnival is held. The reduced fees provided by this section, in case a carnival is held under direction of an association receiving state aid, are applicable throughout the year, not merely during fair week. 11 Atty. Gen. 501.

A fortune teller is not a "sideshow" under this section. 14 Atty. Gen. 421.

A person exhibiting motion pictures is not subject to the provisions of this section. 15 Atty. Gen. 136.

A private corporation operating a number of rides on which a charge is made for each person is required to pay an annual license fee of \$20 for each such device so operated. 19 Atty. Gen. 463.

A showman's license is not required for a penny arcade but a showman's license is required for a wild life exhibit where no regular admission fee is charged but collection is taken at the exit of the exhibit. A showman's license may not be transferred from one kind of amusement ride to another even though both are owned by the same person. Ch. 259, Laws 1947, has no application to the licenses granted under this section. 36 Atty. Gen. 435.

Under this section a showman's license is not required for pony rides operated at carnivals and picnics. A showman's license is not required for a stand using guns which shoot out corks to knock over packages of cigarettes, since such stand is not a shooting gallery as commonly understood. 37 Atty. Gen. 39.

The owner of a circus may operate all stands on the circus grounds under a single transient merchant's license, if the stands are covered by 129.05. If the stands are such as might be classed as sideshows, wild animal shows, rides or any other type of show governed by 129.14, this rule would not apply. 41 Atty. Gen. 4.

**440.93 History:** R. S. 1849 c. 32 s. 2; 1852 c.

386 ss. 1 to 9; 1856 c. 117 ss. 1, 2; R. S. 1858 c. 39 s. 2; R. S. 1858 c. 50 ss. 7 to 11, 15, 16, 20; R. S. 1858 c. 169 s. 29; 1877 c. 296 s. 2; R. S. 1878 s. 4573; Stats. 1898 s. 4573; 1925 c. 4; Stats. 1925 s. 348.45; 1935 c. 550 ss. 386, 391; Stats. 1935 s. 129.15; 1969 c. 336 s. 30; Stats. 1969 s. 440.93.

**440.94 History:** 1941 c. 223; Stats. 1941 s. 129.17; 1953 c. 187; 1961 c. 24; 1969 c. 336 s. 30; 1969 c. 392 s. 87g; Stats. 1969 s. 440.94.

**440.95 History:** 1901 c. 372; 1909 c. 210; 1911 c. 663 s. 265; Stats. 1911 s. 1584cn; 1923 c. 291 s. 3; Stats. 1923 s. 129.18; 1935 c. 550 s. 387; 1959 c. 145; 1969 c. 336 s. 30; Stats. 1969 s. 440.95.

**440.96 History:** 1945 c. 446; Stats. 1945 s. 110.16; 1955 c. 10; 1969 c. 336 ss. 15, 16; Stats. 1969 s. 440.96.

## CHAPTER 441.

### Division of Nurses.

**441.01 History:** 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-1; 1923 c. 448 s. 74; Stats. 1923 s. 149.01; 1941 c. 132; 1943 c. 63, 304; 1945 c. 242; 1949 c. 402; 1955 c. 10, 333; 1963 c. 458; 1965 c. 433 s. 121; 1965 c. 533, 645; 1969 c. 55 s. 113; 1969 c. 154 s. 377; 1969 c. 331; 1969 c. 336 ss. 67, 68, 158; Stats. 1969 s. 441.01.

The committee on nursing education appointed under 149.01, Stats. 1929, can make rules whereby accredited training schools must require of student nurses that they have high school education or its equivalent. 19 Atty. Gen. 252.

Under 149.01 (4), Stats. 1937, the committee on nursing education has power to accredit schools for nurses and in a proper case may remove a school from the accredited list after giving the school a hearing. 26 Atty. Gen. 400.

**441.02 History:** 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-2; 1923 c. 448 s. 75; Stats. 1923 s. 149.02; 1941 c. 132; 1949 c. 402; 1959 c. 659 s. 76; 1969 c. 336 s. 70; Stats. 1969 s. 441.02.

**441.04 History:** 1921 c. 365 s. 2; 1921 c. 590 s. 6; Stats. 1921 s. 1435c-3 (1); 1923 c. 448 s. 77; Stats. 1923 s. 149.04; 1941 c. 132; 1943 c. 63; 1947 c. 450, 483; 1949 c. 402; 1955 c. 290; 1963 c. 458; 1967 c. 43; 1969 c. 336 s. 72; Stats. 1969 s. 441.04.

The committee on nursing education may make administrative rules, but cannot add to the statutory requirements for registration of nurses; a rule which requires 6 months' residence prior to application for registration is inconsistent with the statute and void. 10 Atty. Gen. 1130.

The state board of nursing may not waive or reduce the \$25 examination fee provided by 149.04, Stats. 1949, for applicants who fail the examination for registered nurses and who apply for subsequent examination. 38 Atty. Gen. 341.

The board may not retain the examination fee and refuse to examine the applicant upon grounds of inadequacy of qualifications. 39 Atty. Gen. 12.