

being hauled by an agent or employe of the purchaser subject to inspection and rejection at the factory, title to the milk passes at the factory rather than upon delivery to the hauler. 121.47 (1) and (2), Stats. 1945. If the milk is insanitary, prosecution under 97.37 may be brought in the county of defendant's residence for possession with intent to sell, or in the county where the purchaser receives and inspects the milk, for selling or offering the milk for sale. 35 Atty. Gen. 337.

Quasi-judicial powers involving the inspection and destruction of insanitary milk delegated to the department of agriculture cannot be redelegated to private persons. 37 Atty. Gen. 546.

**97.53 History:** 1901 c. 243 s. 1; 1905 c. 261 s. 1; Supl. 1906 s. 4603L; 1925 c. 4; Stats. 1925 s. 352.57; 1935 c. 550 s. 253; Stats. 1935 s. 97.53; 1953 c. 646.

**97.56 History:** 1927 c. 372; Stats. 1927 s. 352.66 (1) to (3); 1935 c. 550 s. 256; Stats. 1935 s. 97.56.

**97.72 History:** 1935 c. 550 s. 282 to 285; Stats. 1935 s. 97.72; 1939 c. 183; 1943 c. 229; 1951 c. 223 s. 9, 10; 1953 c. 208, 560; 1959 c. 459; 1969 c. 286 ss. 46, 47.

## CHAPTER 98.

### Weights and Measures.

**98.01 History:** 1961 c. 659; Stats. 1961 s. 98.01; 1969 c. 111.

**98.02 History:** 1961 c. 659; Stats. 1961 s. 98.02.

**98.03 History:** 1961 c. 659; Stats. 1961 s. 98.03; 1969 c. 309.

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

**98.04 History:** 1961 c. 659; Stats. 1961 s. 98.04; 1969 c. 309.

Sealers of weights and measures are authorized to inspect even though some articles inspected are intended for interstate commerce. 2 Atty. Gen. 746.

The municipal sealers of weights and measures are entitled to be reimbursed the necessary expenses connected with the performance of their duties, in addition to their salaries. There is no authority for requiring owners of platform scales to pay the expense of transporting the testing apparatus to the location of the scales. 2 Atty. Gen. 851.

The salary of the municipal sealer of weights and measures, he having no term of office and being appointed under civil service rules, may be raised at any time. 5 Atty. Gen. 216.

The council of a city having a population of more than 5,000 is without power to abolish or dispense with the office of city sealer of weights and measures. 12 Atty. Gen. 257.

A municipal sealer of weights and measures may not charge any fee for performance of his official duties. 13 Atty. Gen. 344.

A city has the right to add to the duties im-

posed on the sealer of weights and measures that of testing gas and electric meters. 27 Atty. Gen. 238.

**98.05 History:** 1961 c. 659; Stats. 1961 s. 98.05; 1969 c. 309.

**98.06 History:** 1961 c. 659; Stats. 1961 s. 98.06; 1963 c. 107; 1965 c. 494.

**Draftsman's Note, 1961:** This section is new. It follows provisions of the model law. Its purpose is to require sellers of commodities to use methods of sale which provide accurate quantity information to buyers, thus protecting "gullible" purchasers and promoting fair competition among merchants. [Bill 308-A]

**98.07 History:** 1961 c. 659; Stats. 1961 s. 98.07; 1965 c. 494; 1967 c. 11.

**Draftsman's Note, 1961:** This section is new. It follows the model law. The purpose of sub. (1) is to "smoke out" sellers who determine their prices on the basis of weight or measure but who do not disclose that weight or measure to their customers. Sub. (2) is aimed at deceptive packaging practices, such as "slack filling" and the use of deceptive terminology in connection with declared weight or measure. Sub. (3) directs the issuance of tolerances for normal human error and shrink. [Bill 308-A]

**98.12 History:** 1955 c. 582; Stats. 1955 s. 98.12; 1965 c. 607, 633.

A declaration that a bottle of a capacity not named therein is a false measure, and that a dealer using such a bottle that is in fact a correct measure is guilty of using a false measure, is a mere legislative fiat declaring what is not a fact to be a fact; and no one can be convicted of using a false measure in selling milk or cream merely for using a nonconforming bottle, but to justify conviction there would have to be allegation and proof that the bottle used was in fact a false measure. State ex rel. Dept. of Agriculture v. Land O'Lakes I. C. Co. 247 W 26, 18 NW (2d) 325.

**98.13 History:** 1903 c. 43; Supl. 1906 s. 1494aa; 1907 c. 99; 1913 c. 433; 1923 c. 152 s. 197; Stats. 1923 s. 98.09; 1929 c. 89; 1935 c. 462; 1935 c. 550 s. 299; Stats. 1935 s. 98.13; 1943 c. 229; 1947 c. 169, 381; 1951 c. 223; 1959 c. 42; 1969 c. 288.

A corporation may be prosecuted where an agent or subagent, acting under direction of the corporation, uses a different sample than that prescribed to test cream. 13 Atty. Gen. 9.

**98.14 History:** 1903 c. 43 s. 2; Supl. 1906 s. 1494ab; 1911 c. 663 s. 210; 1915 c. 95; 1923 c. 152 s. 198; Stats. 1923 s. 98.10; 1929 c. 161; 1935 c. 550 s. 300; Stats. 1935 s. 98.14.

**98.145 History:** 1953 c. 581; Stats. 1953 s. 98.145; 1963 c. 224; 1965 c. 349.

Constitutional and administrative questions in 98.145, Stats. 1953, are discussed in 42 Atty. Gen. 221.

**98.146 History:** 1957 c. 548; Stats. 1957 s. 98.146; 1963 c. 224; 1965 c. 349; 1967 c. 242.

**98.15 History:** 1903 c. 43 s. 3; 1905 c. 99; Supl. 1906 s. 1494ac; 1913 c. 433; 1923 c. 152 s.

199; Stats. 1923 s. 98.11; 1935 c. 550 s. 301; Stats. 1935 s. 98.15; 1959 c. 42.

In a prosecution under sec. 1494ac, Stats. 1919, intent is not a necessary element of the offense. 9 Atty. Gen. 185.

**98.21 History:** 1923 c. 123; Stats. 1923 s. 125.21; 1935 c. 550 s. 308 to 310; Stats. 1935 s. 98.21; 1943 c. 229; 1961 c. 659.

Wrapped bread in the form of loaves, whether sliced or unsliced, must comply with this section. It is not in package form. *M. Carpenter Baking Co. v. Dept. of Agriculture and Markets*, 217 W 196, 257 NW 606.

**98.22 History:** 1911 c. 566; Stats. 1911 s. 1666b; 1923 c. 291 s. 3; Stats. 1923 s. 125.11; 1935 c. 550 s. 311; Stats. 1935 s. 98.22; 1961 c. 659; 1969 c. 276 s. 583 (2); 1969 c. 309.

See note to 62.11 (5), citing *Brittingham & Hixon L. Co. v. Sparta*, 157 W 345, 147 NW 635.

Where coal is sold to a resident of this state in Michigan and delivered to him by the wagon-load, by a Michigan dealer, the sealer of weights and measures would not be justified in prosecuting for failure to issue delivery tickets. 1 Atty. Gen. 616.

The delivery of coal without being accompanied by the required delivery ticket constitutes a criminal offense. 2 Atty. Gen. 853.

**98.245 History:** 1959 c. 388; Stats. 1959 s. 98.245; 1969 c. 309.

**98.26 History:** 1935 c. 550 s. 315, 316; Stats. 1935 s. 98.26; 1943 c. 229; 1951 c. 223; 1961 c. 659.

Sec. 1664 (2), Stats. 1913, imposing a penalty on one who hinders sealers of weights and measures in the performance of their duties, is not violated by one who refuses to sell ice to a person who has made complaint against him for short weight. An ice dealer may refuse to sell ice to a person without incurring any liability. 2 Atty. Gen. 308.

## CHAPTER 99.

### Cold Storage Warehouses and Refrigerated Food Lockers.

**99.01 History:** 1917 c. 428; Stats. 1917 s. 1684w-1; 1923 c. 291 s. 3; Stats. 1923 s. 111.01; 1929 c. 477; 1935 c. 550 s. 318; Stats. 1935 s. 99.01; 1951 c. 355; 1955 c. 293.

**99.02 History:** 1917 c. 428; Stats. 1917 s. 1684w-2; 1923 c. 291 s. 3; Stats. 1923 s. 111.02; 1935 c. 550 s. 319; Stats. 1935 s. 99.02; 1943 c. 55; 1959 c. 609; 1963 c. 224; 1965 c. 349; 1967 c. 6.

**99.03 History:** 1917 c. 428; Stats. 1917 s. 1684w-3; 1923 c. 291 s. 3; Stats. 1923 s. 111.03; 1935 c. 550 s. 320; Stats. 1935 s. 99.03.

**99.05 History:** 1917 c. 428; Stats. 1917 s. 1684w-5; 1923 c. 291 s. 3; Stats. 1923 s. 111.05; 1935 c. 550 s. 322; Stats. 1935 s. 99.05; 1951 c. 355.

**99.06 History:** 1917 c. 428; Stats. 1917 s. 1684w-6; 1921 c. 520; 1923 c. 291 s. 3; Stats. 1923 s. 111.06; 1935 c. 550 s. 323; Stats. 1935 s. 99.06.

**99.07 History:** 1917 c. 428; Stats. 1917 s. 1684w-7; 1923 c. 291 s. 3; Stats. 1923 s. 111.07; 1929 c. 477; 1935 c. 550 s. 324; Stats. 1935 s. 99.07; 1951 c. 355.

**99.10 History:** 1955 c. 293; Stats. 1955 s. 99.10; 1963 c. 224; 1967 c. 6.

**99.11 History:** 1955 c. 293; Stats. 1955 s. 99.11.

**99.12 History:** 1955 c. 293; Stats. 1955 s. 99.12.

**99.13 History:** 1955 c. 293; Stats. 1955 s. 99.13; 1969 c. 276.

**99.15 History:** 1917 c. 428; Stats. 1917 s. 1684w-12; 1921 c. 56; 1923 c. 291 s. 3; Stats. 1923 s. 111.12; 1935 c. 550 s. 329; Stats. 1935 s. 99.12; 1951 c. 223; 1955 c. 293 s. 4; Stats. 1955 s. 99.15.

## CHAPTER 100.

### Marketing; Warehouses; Trade Practices.

**100.01 History:** 1931 c. 155; 1931 c. 470 s. 6a; Stats. 1931 s. 99.33; 1933 c. 351 s. 2; 1935 c. 44; 1935 c. 550 s. 333; Stats. 1935 s. 100.01; 1939 c. 127, 476; 1943 c. 229; 1943 c. 375 s. 28; 1943 c. 401 s. 26; 1943 c. 515 s. 8; 1945 c. 226; 1953 c. 296.

**100.02 History:** 1933 c. 112; Stats. 1933 s. 348.51; 1935 c. 550 s. 334, 335; Stats. 1935 s. 100.02; 1943 c. 229; 1951 c. 261 s. 10; 1969 c. 276 s. 583 (1).

**100.025 History:** 1959 c. 573, 656; Stats. 1959 s. 100.025; 1961 c. 293.

**100.03 History:** 1947 c. 510; Stats. 1947 s. 100.03; 1953 c. 362; 1955 c. 355; 1957 c. 368; 1959 c. 360; 1969 c. 392 s. 84.

**100.04 History:** 1939 c. 217; Stats. 1939 s. 100.04; 1943 c. 375 s. 30; 1943 c. 401 s. 27; 1943 c. 515 s. 10; 1947 c. 471; 1955 c. 112.

**100.05 History:** 1878 c. 224; R. S. 1878 s. 1494a; Stats. 1898 s. 1494a; 1907 c. 306; 1923 c. 152 s. 89; Stats. 1923 s. 4432-10; 1925 c. 4; Stats. 1925 s. 343.34; 1931 c. 148 s. 2; 1935 c. 550 s. 239; Stats. 1935 s. 97.41; 1969 c. 286 s. 31; Stats. 1969 s. 100.05.

**100.055 History:** 1953 c. 638; Stats. 1953 s. 97.43; 1955 c. 38; 1969 c. 276 s. 583 (1); 1969 c. 286 s. 31; Stats. 1969 s. 100.055.

**100.06 History:** 1939 c. 471; Stats. 1939 s. 100.06; 1941 c. 217; 1943 c. 298; 1947 c. 202; 1949 c. 62, 487; 1953 c. 214; 1957 c. 152; 1965 c. 252; 1969 c. 286 s. 52.

100.06 (4), Stats. 1941, is explained and applied in *Woodke v. Procknow*, 238 W 422, 300 NW 173.

Under the provisions in 100.06 (8), Stats. 1943, the whole of a claim of a producer of dairy products is given the same preference, without any 3-month limitation as to time or limitation as to amount, as is given to labor claims by 128.17 (1) in creditors' actions. In *re Merrick Dairy Co.* 249 W 295, 24 NW (2d) 679.

The department of agriculture, in a proceeding against the surety on the bond of the