

No. 662, S.]

[Published August 12, 1949.

**CHAPTER 639.**

AN ACT to amend, revise, renumber, repeal and recreate various provisions of the statutes, for the purpose of correcting errors, correcting references, clarifying language, renumbering for better location, reconciling conflicts and repelling unintended repeals and eliminating unnecessary and obsolete provisions, in connection with acts of the 1949 session of the legislature.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 5.26 (8) (a), as amended by chapters 268, 293, 354, 329 and 455, Laws 1949, is repealed and recreated to read:

5.26 (8) (a) Whenever such nomination papers propose 3 or more candidates for members of the county board of supervisors or for any elective town office, including constable, in towns adopting the primary for elective town officers as provided in section 5.27 (4) and (5) in counties having a population of 250,000 or more, or for any judicial office in any county having a population of 300,000 or more, or propose more than twice as many candidates for any elective town office in any such towns or for members of the board of school directors or the board of education as are to be elected in any city of any such county, or for the office of county superintendent of schools in such county, or propose 3 or more candidates for justice of the supreme court, judge of a branch of the circuit court, county judge or for state superintendent of public instruction, none of the persons whose name is so presented shall become nominated as a candidate until nominated at a primary election held 4 weeks prior to the first Tuesday in April in the year in which such office is required to be filled by election except as provided by section 5.025.

SECTION 2. 6.23 (5) is amended to read:

6.23 (5) In no case shall a county clerk place the name of any person upon such ballot as a candidate for the office of county superintendent of schools unless such person shall have filed in such clerk's office at least 25 days before the day of election at which such superintendent is to be elected, proof of having successfully taught \* \* \* at least 2 years in a rural public school or in a graded elementary school and proof that his qualifications meet the requirements of section 39.01 (2).

SECTION 3. 15.11, as amended by chapter 397, Laws 1949, is renumbered 15.11 (1). The amendment of 15.11 by said chapter 397 does not affect 15.11 (2) created by chapter 228, Laws 1949, or 15.11 (3) as renumbered by that act.

SECTION 4. 15.18 (3), as created by chapter 20, Laws 1949, is renumbered 15.16 (7) (c).

SECTION 5. Section 4 of chapter 382, Laws 1949, is repealed and the renumbering of subsections of 15.22 made by chapter 178, Laws 1949, is preserved; 15.22 (3), as created by chapter 382, Laws 1949, is renumbered 15.22 (3a); and 15.22 (3) of the 1947 statutes is repealed.

SECTION 6. 15.22 (10) (a) to (e), as amended by chapter 633 (Bill 644, S.), Laws 1949, are renumbered 15.22 (12) (a) to (e); and 15.22 (10) (j), as created by chapter 463, Laws 1949, is renumbered 15.22 (12) (j).

SECTION 7. 20.09 (5), as amended by chapter 360, Laws 1949, is amended to read: 20.09 (5) Annually, beginning July 1, 1949, \* \* \* \$3,000 for personal services to defray the expenses of executing its functions under section 76.48.

SECTION 8. 40.73 (5) (b), as renumbered and amended by chapter 428, Laws 1949, is amended to read:

40.73 (5) (b) The notice shall inform the parents as to the legal requirements for school attendance. A copy of section 40.70 shall be printed on the face or back of such notice. It shall be the duty of all truant officers, after having given such notice, to ascertain whether the parents have complied with the notice; and in case of failure to so comply \* \* \* within 3 days the officer shall begin and prosecute criminal proceedings against offending parents.

SECTION 9. 41.15 (10) (d) is repealed.

SECTION 10. The amendments made to 45.35 (5) by chapter 75, Laws 1949, are not repealed by chapter 405, Laws 1949. Both amendments stand. The purpose of this enactment is to repel any implication that the later act repealed the earlier one.

SECTION 11. The amendment made to 48.07 (1) (b) by chapter 117, Laws 1949, is not repealed by chapter 393, Laws 1949. Both amendments stand. The purpose of this enactment is to declare that the later act does not repeal the earlier one.

SECTION 12. The amendment made to 59.97 (1) (a) by chapter 221, Laws 1949, is not repealed by chapter 233, Laws 1949. Both amendments stand. The purpose of this enactment is to repel any implication that the later act repealed the earlier one.

SECTION 12a. 66.03 (3) (a), as amended by section 11, chapter 262, Laws 1949, is repealed and recreated to read:

66.03 (3) (a) The title to real estate shall not be transferred except by agreement, but the value thereof shall be included in determining the assets of the municipality owning the same and in making the adjustment of assets and liabilities.

SECTION 13. 66.911 (4) is amended to read:

66.911 (4) Each trustee shall be appointed by the governor. In the case of the city or village trustee \* \* \* such \* \* \* appointment shall be made from a list of 5 names for each vacancy submitted by the executive committee of the League of Wisconsin Municipalities. In the case of the county or town trustee \* \* \* the appointment shall be made from a list of 5 names for each vacancy submitted by the executive committee of the Wisconsin County Boards' Association. Each such list shall be submitted to the governor \* \* \* within 30 days following any vacancy or the expiration of any term requiring such list. All appointments shall be made within 30 days after receipt of any such list or prior to 30 days before the expiration of any term of a trustee not requiring such list. Each trustee shall be notified in writing of his appointment.

SECTION 14. 70.07 (4), as amended by chapter 87, Laws 1949, is amended to read:

70.07 (4) The concurrence of a majority of such board of assessors shall be necessary to determine any matter upon which the tax commissioner requires it to act. No notice need be given to the owners of the property assessed of any \* \* \* corrections or changes in the assessment roll which are made prior to the day or days fixed in the notice mentioned in subsection (2) as the day or days on which said assessment roll is to be open for examination, but any changes made thereafter and before the assessment roll shall have been delivered to the board of review can only be made upon notice \* \* \* by first class mail to the person assessed if a resident of the city, or, if a nonresident, his agent if there be one resident therein, or, if neither, the possessor of the property assessed if any; provided the residence of such owner, agent or possessor be known to any member of said board of assessors.

SECTION 15. 85.40 (3) (a), as amended by chapter 449, Laws 1949, is amended by adding at the end thereof the following: "The first mile outside of and immediately

*adjacent to any incorporated municipality shall not be counted in computing such 2,000 miles."*

SECTION 16. 85.40 (6), as created by chapter 449, Laws 1949, is amended to read:  
 85.40 (6) No person shall operate a vehicle upon a highway at a speed so slow as to impede or block the reasonable and lawful movement of traffic. Traffic officers may \* \* \* direct such a person to move at a reasonably increased speed or to yield the roadway to overtaking vehicles in accordance with section 85.12.

SECTION 17. 139.03 (7), as amended by chapter 264, Laws 1949, is amended to read:  
 139.03 (7) The \* \* \* *commissioner of taxation* shall keep a suitable record of the sale of all stamps which shall show the dates of \* \* \* sale \* \* \* and the names of the purchasers. *On the certification of the commissioner* the state treasurer shall refund to any purchaser or any banking institution located in Wisconsin the money paid for any stamps returned unfit for use or otherwise unused, \* \* \* the tax paid on any fermented malt beverages or intoxicating liquor which is spoiled or has become unfit for beverage purposes, \* \* \* and the tax paid on fermented malt beverages sold to the armed forces of the United States. \* \* \* *The commissioner* shall prescribe the method of proof required for obtaining such \* \* \* *refunds*.

SECTION 18. 149.03, as amended by chapter 402, Laws 1949, is amended to read:  
 149.03 The board shall appoint a committee of examiners for nurses to consist of the director of nursing education, who shall act as secretary, and 4 registered nurses of not less than 3 years' experience in nursing. \* \* \* The term of each shall be 3 years and until their successors have been appointed. Members shall be reimbursed actual and necessary expenses and receive \$8 for each day engaged. The board of examiners for nurses is abolished.

SECTION 19. 206.41 (6) (a) and (9) (c), as repealed and recreated by chapter 399, Laws 1949, are amended by substituting "(11)" for "(12)" in the references to "subsection (12)".

SECTION 20. 235.01, as amended by chapter 256, Laws 1949, is amended to read:  
 235.01 (1) Conveyances of land or any estate or interest therein may be made by deed signed and sealed by the person from whom the estate or interest is intended to pass, being of lawful age, or by his lawful agent or attorney, and acknowledged or proved as directed in this chapter, without any other act or ceremony whatever \* \* \*.

(2) No mortgage or other alienation by a married man of his homestead, exempt by law from execution, or any interest therein, legal or equitable, present or future, by deed or otherwise, shall be valid without his wife's consent, evidenced by her act of joining in the same deed, mortgage or other conveyance, or by her act of executing a separate deed, mortgage or conveyance, except a conveyance from husband to wife.

(3) *No mortgage or other alienation by a married woman of any interest, legal or equitable, present or future, by deed or otherwise, in a homestead held by her and her husband as joint tenants, shall be valid without her husband's consent, evidenced by his act of joining in the same conveyance or mortgage or executing a separate conveyance or mortgage of the same nature as the wife's except a conveyance from a wife to a husband.*

(4) When a mistake is made in the description of land occupied as a homestead, the attempted conveyance shall be construed as an executory contract to convey said homestead by said husband and wife, and the description of said land may at any time be corrected as other conveyances are corrected, and shall bind said parties as fully as though it were correctly described.

SECTION 21. 354.03 (1), as renumbered from 361.44 (1) and revised by chapter 631 (Bill 474, S.), Laws 1949, is amended to read:

354.03 (1) An arrest by a peace officer without a warrant for a misdemeanor *or for the violation of an ordinance* is lawful whenever the officer has reasonable grounds to believe that the person to be arrested has committed a misdemeanor *or has violated an ordinance* and will not be apprehended unless immediately arrested or that personal or property damage may be likely to be done unless immediately arrested. *This subsection is supplemental to section 62.09 (13) and shall not in any way limit any powers to arrest granted by that section.*

SECTION 22. 346.05 and 354.46 as renumbered and revised by chapter 631 (Bill 474, S.), Laws 1949, are consolidated, renumbered 354.46 and revised to read:

354.46 ARREST OF WITNESSES FOR PERJURY. If it appears to the trial judge that a witness so testified before him as to induce a reasonable belief that he committed perjury, the judge may order his arrest, stating in the order the reason for the arrest; and such order shall stand as a criminal complaint upon which the clerk of the court shall issue a warrant. Notice of the proceedings shall be given to the district attorney. The accused shall be brought before the judge issuing the order for a preliminary examina-

tion. Thereafter the procedure shall be as in other cases. If any paper, book or document was produced which is needed in the prosecution for perjury, the judge may order a certified copy made, which copy shall have the same effect as the original.

SECTION 23. 370.01 (46) (a), as renumbered and amended by chapter 245, Laws of 1949, is amended by striking through the word "estate."

SECTION 24. 236.22 of the statutes as created by chapter 372, Laws of 1949, is amended to read:

236.22 DIVISION OF LAND INTO SMALL PARCELS *IN CITIES OF THE FIRST CLASS* PROHIBITED; PENALTY. It shall be unlawful to divide or subdivide and convey by deed or otherwise any lot in any recorded plat or any parcel or tract of unplatted land *in any city of the first class* so as to create a lot or parcel of land which does not have street or public highway frontage of at least 4 feet or an easement to a street or public highway of a minimum width of 4 feet but this section shall not apply to conveyances by tax deed or through the exercise of eminent domain or to such reductions in size or area as are caused by the taking of property for public purposes. The provisions of this section shall not be construed to prohibit the dividing or subdividing of any lot or parcel of land *in any such city* where the divided or subdivided parts thereof which become joined in ownership with any other lot or parcel of land comply with the requirements of this section, if the remaining portion of such lot or parcel so divided or subdivided complies with the requirements of this section. Any person who shall make such conveyance or procure such a sale or act as agent in procuring such sale or conveyance shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail not more than 6 months or by both such fine and imprisonment.

Approved August 8, 1949.

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