

CHAPTER 348.

OFFENSES AGAINST PUBLIC POLICY.

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348.01 Setting up or promoting lottery. Any person who shall set up or promote any lottery for money, or shall dispose of any property of value, real or personal, by way of a lottery, or who shall aid, either by printing or writing, or shall in any way be concerned in setting up, managing or drawing any such lottery, or who shall, in any house, shop or building owned or occupied by him or under his control, knowingly permit the setting up, managing or drawing of any such lottery, or the sale of any lottery ticket, share of a ticket, or any other writing, certificate, bill, token or any other device purporting or intended to entitle the holder, bearer or any other person to any prize or interest or share of any prize to be drawn in a lottery shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

Note: To constitute a lottery three elements are necessary: a prize, a chance and a consideration. The "bank night" scheme of theaters is a lottery. The increased sale of tickets furnishes the consideration. The fact that registered persons who do not buy tickets also participate in the drawing does not save the scheme from being a lottery. State ex rel. Cowie v. La Crosse Theaters Co. 232 W 153, 286 NW 707.

The game of bingo as played on defendants' premises constituted a "gambling game" and a "lottery" and was unlawful, even though the game was conducted for the purpose of raising funds for charitable and patriotic purposes. State ex rel. Trampe v. Multerer, 234 W 50, 289 NW 600.

A drugstore's "multiple dividend plan" for giving money to persons whose names are each day drawn by lot from a card list of registrants, although no fee is charged and no purchase or coming to the store is required for registration, nevertheless constitutes a "lottery," where, the elements of a prize and a chance being manifestly present, the remaining element of "consideration" is supplied by the fact that registrants whose names are drawn are required to come to the store and procure a so-called daily coupon the day previously, and that the operation of the scheme pays the operator or he would not operate it. State ex rel. Regsz v. Blumer, 236 W 129, 294 NW 491.

The requirement, in a "bank night" scheme, of registration and appearance within the theater within a specified time after the announcing and drawing is a sufficient legal detriment to constitute consideration for the prize, and a sufficient consideration to put the scheme within the definition of a "lottery," even though registrants are not required to purchase admission tickets. Stern v. Miner, 239 W 41, 300 NW 738.

Where tickets are given to purchasers stamped with date of purchase and amount of sale and those issued on one day each month are redeemed in cash at their full value, lucky day being determined by chance of drawing, scheme is gambling. 19 Atty. Gen. 451.

Free distribution of cards bearing numbers entitling holder to prize money is not

lottery, gambling device nor violation of trading stamp act. 24 Atty. Gen. 663.

Plan entitled "suit club" constitutes lottery. 25 Atty. Gen. 623.

Giving of tickets or numbers with sale of gasoline and subsequent award of gasoline free to holder of lucky ticket is unlawful. 25 Atty. Gen. 693.

Cards bearing numbers entitling holder to prize money if he also has purchased theater ticket are in violation of lottery and gambling laws. 26 Atty. Gen. 143.

Scheme whereby frequenters of store register and prizes are awarded to those whose names are drawn by chance constitutes lottery. 27 Atty. Gen. 225.

See note to 100.16, citing 27 Atty. Gen. 357.

"New London Day Plan" is condemned as lottery, in violation of this section. 27 Atty. Gen. 611.

"Multiple-dividend" daily coupon scheme violates this section. 27 Atty. Gen. 764, 767.

So-called bank night insurance held to be lottery. 28 Atty. Gen. 132.

Device in nature of punch board whereby purchaser of chance in each case receives box containing merchandise, number of which corresponds to number on back of tab pulled off front of larger box, without knowing what articles are contained in smaller boxes, and said articles being diverse in kind and character, constitutes lottery under 348.01; its use is also violation of 100.16. 28 Atty. Gen. 312.

"Treasure Chest" (a somewhat modified form of "Bank Night") is a lottery. 28 Atty. Gen. 457.

Scheme of advertising called "Money Words" is a lottery. 28 Atty. Gen. 529.

Plan whereby an electrical device is attached to a ticket dispenser in a theatre box office, the bell of which device rings and a light flashes automatically after sale of a certain number of tickets, and which entitles a ticket purchaser to refund of his money for tickets purchased if he happens to make the purchase at the time the bell rings and the light flashes, is a lottery. 28 Atty. Gen. 556.

Scheme known as "Foto-Pay-Day" violates this section. 31 Atty. Gen. 121.

348.02 Selling tickets, etc. Any person who shall sell, either for himself or for another person, or shall offer for sale, or shall have in his possession with intent to sell or offer

for sale, or to exchange or negotiate, or shall in anywise aid or assist in selling, negotiating or disposing of a ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token or other device as is mentioned in section 348.01 shall be punished by fine not exceeding five hundred dollars.

348.03 Advertising tickets. Any person who shall advertise any lottery ticket or any share in such ticket for sale, either by himself or any other person, or who shall set up or exhibit any sign, symbol or any emblematic or other representation of a lottery or of the drawing thereof on any such writing, certificate, bill, token or other device before mentioned, or where the same may be purchased or obtained, or shall in any way invite or entice or attempt to invite or entice any other person to purchase or receive the same shall be punished by fine not exceeding one hundred dollars.

348.04 Making or selling tickets in fictitious lottery. Any person who shall make or sell, or shall have in his possession with intent to sell, exchange or negotiate, or who shall by writing, printing or otherwise assist in making or selling, or in attempting to sell, exchange or negotiate any false or fictitious lottery ticket or any share thereof, or any writing, certificate, bill, token or other device before mentioned, or any ticket or share thereof in any fictitious or pretended lottery, knowing the same to be false or fictitious, or who shall receive any money or other thing of value for any such ticket or share of a ticket, or of any such writing, certificate, bill, token or other device purporting that the owner, bearer or holder thereof shall be entitled to receive any prize or any share of a prize, or any other thing of value that may be drawn in a lottery, knowing the same to be false or fictitious, shall be punished by imprisonment in the state prison not more than two years nor less than one year, or by imprisonment in the county jail not more than one year nor less than six months, or by fine not exceeding five hundred dollars.

348.05 Defendant to prove what. Upon a trial for any of the offenses mentioned in section 348.04 any ticket or share of a ticket, or any other writing or thing before mentioned which the defendant shall have sold or offered for sale or for which he shall have received any valuable consideration shall be deemed to be false, spurious or fictitious unless such defendant shall prove the same to be true and genuine and to have been duly issued by the authority of some legislature within the United States, and that such lottery was existing and undrawn, and that such ticket or share thereof, or other writing or thing before mentioned was issued by lawful authority and binding upon the persons who issued the same.

348.06 Prizes forfeited. All sums of money and every other valuable thing drawn or received by any person as a prize or share or part of a prize derived in, by or through any lottery or pretended lottery, contrary to the provisions of the preceding sections of this chapter, shall be forfeited to this state and may be recovered by any proper action brought by the attorney-general or any district attorney in the name and behalf of the state.

348.07 Keeping or using gaming devices. Any person who shall set up, keep, manage or use any table, wheel or other construction, or any cards, dice or other device, scheme, contrivance or thing of any name or description adapted, suitable, devised or designed, or which can or shall be used for gambling purposes and induce, entice or permit any person to gamble, bet or play for gain with, at, or upon, or by means of, such table, wheel or other construction, or such cards, dice or other device, scheme, contrivance or thing, or to bet or wager anything at or upon any game whatever played by such keeper, manager or any other person by means or use thereof, or who shall open, keep or manage any common gambling house shall be punished by imprisonment in the county jail not more than one year nor less than one month, or by fine not exceeding five hundred dollars nor less than one hundred dollars.

Note: In a prosecution for conspiracy to maintain gambling devices, where defendant committed overt acts affecting the maintenance of all slot machines of all conspirators, each defendant's maintenance of his own machine constituted a separate offense, conviction of which did not preclude conviction of conspiracy. *State v. Martin*, 229 W 644, 282 NW 107.

Pin ball games described are gambling devices whether prize is paid by owner of establishment or automatically by machine. 24 Atty. Gen. 536.

So-called game of "Hollywood" appears to be in violation of this section. 26 Atty. Gen. 119.

Pinball games are gambling devices

within prohibition of 348.07. 29 Atty. Gen. 206.

Pinball machine containing no pay-off device, played solely for amusement and not actually used for gambling purposes, is not gambling device under 348.07 or 348.09. 30 Atty. Gen. 300.

Pinball machine containing no pay-off device whereby coins or tokens are emitted but which through its own internal mechanism awards free play upon making certain score is gambling device per se, since right to replay machine is "thing of value." 25 Atty. Gen. 731 overruled in view of *Milwaukee v. Burns* (1937), 225 W 296; 30 Atty. Gen. 470.

348.08 Betting upon game, etc. Any person who shall bet or wager any money, property or anything of value at or upon any game played by himself or by another with, at, upon or by means or the use of any table, wheel or other construction or any cards, dice or other device, scheme, contrivance or thing adapted, suitable, devised, designed, or which

can or shall be used for gambling purposes shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

348.085 Gambling contests of skill, speed or power of man or beast. (1) All devices or things whatever, whereby any person shall or may be induced to believe that he will or may receive any money, thing or consideration whatever as the result, in whole or part, of any contest of skill, speed or power of endurance of man or beast, are hereby declared to be gambling devices and to be public nuisances. The so-called "contribution and refund" system and any and all variations thereof, whereby any person is or may be induced to believe that upon his paying to, or depositing with, any other person, any money, token or thing of value, he may as the result in whole or part of any contest of skill, speed or power of endurance of man or beast receive as a refund or otherwise any money, token or thing of value, is hereby declared to be gambling and to be unlawful and to constitute a public nuisance.

(2) The place, buildings and premises where any of the devices or things mentioned in subsection (1) are found, kept, issued, offered for sale, sold or redeemed, and also the places, buildings, and premises where any contest of skill, speed or power of endurance of man or beast is had or held, when any person has attempted to induce any other person to believe that as the result either in whole or part, of such contest any person will or may receive any money, thing or consideration whatever, are hereby declared to be and constitute a common gambling house and to be a public nuisance, and it is hereby made the duty of the attorney-general to take proper action to abate the same.

(3) (a) Whenever any nuisance as defined in the preceding subsection is kept, maintained or exists, any citizen of the county in which such nuisance exists may maintain an action, without showing special damage or injury on account thereof, to enjoin or abate such nuisance, the person or persons conducting or maintaining the same and the owner or agent of the building or ground upon which such nuisance exists.

(b) In such action the court may upon proper proof being made, allow a temporary writ of injunction without bond, upon three days' notice of application therefor to the defendants.

(c) In such actions evidence of the general reputation of the alleged nuisance and place shall be admissible for the purpose of proving the existence of said nuisance. No such action instituted by any citizen shall be dismissed unless the court shall be satisfied that said cause should be dismissed upon the merits, but upon application for dismissal being made the court may on its own motion continue such action and by order require the attorney-general to prosecute the same.

(4) The provisions of foregoing subsections shall not apply to purses, prizes or premiums given or offered at state or county fairs nor to purses given to the actual contestants in any boxing match or other athletic contests conducted under chapter 169.

(5) Any person, or the officer or agent of any company or corporation, who shall violate any of the provisions of this section shall, upon conviction thereof be fined in a sum not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year.

Note: Slot machine, although it may be game of skill, is still gambling device and prohibited. This section applies to fraternal, social and religious organizations as well as to private persons. 24 Atty. Gen. 673.

Plan entitled "suit club," whereby skill rather than chance determines who is entitled to secure suit of clothes for less than twenty-five dollars violates this section. 25 Atty. Gen. 697.

Mechanical device commonly known as "merchandiser," although it may be game of skill, is gambling device and use thereof

is prohibited under this section. 27 Atty. Gen. 44.

Sale of safety matches containing questions which when correctly answered entitle contestant to prize, which may be anywhere from one cent to one dollar, constitutes gambling device under 348.085 and violates 100.16. 27 Atty. Gen. 104.

Pinball games are not within this section since where only one person plays there is no "contest" in meaning of statute. 29 Atty. Gen. 206.

348.09 Permitting use of gambling devices. Any person who shall knowingly suffer or permit any table, wheel or other construction, or any cards, dice or other device, scheme, contrivance or thing adapted, suitable, devised, designed or which can or shall be used for gambling purposes to be set up, kept, managed or used, or any gambling or betting therewith, thereon or by means thereof in any house, building, shed, booth or on any lot or premises by him owned, occupied or controlled shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

Note: Where the criminal complaint and warrant charged a defendant with setting up, keeping and managing gambling devices and permitting persons to gamble by means thereof, without specifying the section under which the same were issued, but the district attorney in fact instituted the proceedings under 348.09, and so directed the clerk and informed the court and the defendant, who pleaded guilty on being ar-

raigned, the court should not have applied 348.07, prescribing a punishment beyond the jurisdiction of a justice of the peace, but the court, exercising the powers of a justice of the peace, should have bound the defendant over for trial to the side of the municipal court having jurisdiction as a circuit court if it considered 348.07 as applying. Stecher v. State, 237 W 587, 297 NW 391.

Vending machine which is designed to

be used for gambling purposes violates this section. 26 Atty. Gen. 122.

Court may order slot machines which are gambling devices destroyed when seized by officer. 26 Atty. Gen. 441.

Slot machines seized in respect of violation of this section are subject to destruction and money contained in such machines is subject to forfeiture. 30 Atty. Gen. 289.

348.10 Recovery of money wagered. Any person who, by playing at any game or by betting or wagering on any game, election, horse or other race, ball playing, cock fighting, fight, sport or pastime or on the issue or event thereof, or on any future contingent or unknown occurrence or result in respect to anything whatever, shall have put up, staked or deposited with any stakeholder or third person any money, property or thing in action, or shall have lost and delivered the same to any winner thereof may, within three months after such putting up, staking or depositing, sue for and recover the same from such stakeholder or third person whether such money, property or thing in action has been lost or won or whether it has been delivered over by such stakeholder or third person to the winner or not, and may, within six months after any such delivery by such person or stakeholder, sue for and recover such money, property or thing in action from the winner thereof if the same has been delivered over to such winner; and if he shall not so sue for and recover such money, property or thing in action within the time above limited then any other person may, in his behalf and in his name, sue for and recover the same for the use and benefit of his family or his heirs, in case of his death, from such stakeholder or third person if the same is still held by him, within six months after such putting up, staking or depositing, or from the winner thereof within one year from the delivery thereof to such winner.

348.11 Leasing building for gaming house. Any person who shall knowingly lease or let to another any house, building or room for the purpose of having set up, kept or used therein any construction, device or thing of any description whatever, used or to be used for gambling purposes, or for the purpose of having gambling of any kind or by any means done or practiced therein, or for the purpose of having the same kept as a gaming house, or who shall lease or let any house, building or room, knowing that it is intended to be or that it will be kept or used for the purpose of gambling, in any manner or by any means, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars; and any lease by which such house, building or room is so held and used shall be void, and the lessor may enter upon the premises so let and shall have the same remedies for the recovery thereof as in the case of a tenant holding over his term.

348.12 Witness not privileged. No person shall be incapacitated, excused or privileged from testifying fully or answering fully under oath as a party in any civil action, or from testifying fully as a witness in any criminal prosecution or civil action instituted or brought under the provisions of sections 348.07 to 348.11, relating to gambling, by reason of any evidence or statement he might give or make would or might tend to criminate him; and any such answer or evidence thus required of any person shall not be used against him for any purpose in any case, either civil or criminal, in which he is a party.

348.13 Penalty for gambling, etc. Any person who shall lose or win any money, property or thing in action by gambling, in any manner or by any means, or by betting upon any game, election, race, fight, sport or pastime, or on the issue or event thereof, or on any future contingent or unknown result or occurrence in respect to anything whatever shall be punished by fine not less than five times the value of the money, property or thing in action so lost or won.

348.14 Gambling in cars, etc.; arrest; place of trial. Any person who shall gamble, in any manner or by any means, in any railroad car, depot, station house or building shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars; and any officer, agent, clerk, conductor, brakeman, employe or servant, in charge or assisting in or about the management of any railroad car, depot, station house or building, who shall knowingly suffer or permit any gambling whatsoever therein shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding two hundred dollars; and every officer, agent, clerk, conductor or brakeman in charge or assisting in the management of any such car, depot, station house or building is hereby authorized and required to arrest forthwith, with or without warrant, any person found by him gambling in any such place and bring him before some court having jurisdiction of such offense or deliver him to some officer authorized to make arrests and make such proper complaint as is required by law; and any person who shall gamble as aforesaid on any railroad car may be tried in any county through which the railroad on which such car shall be shall pass.

348.15 [*Renumbered sections 100.16, 100.26 (4) by 1935 c. 550 s. 351, 367*]

348.151 [*Renumbered sections 100.17, 100.26 (1) by 1935 c. 550 s. 352, 364*]

348.16 Gaming contracts void. All promises, agreements, notes, bills, bonds, or other contracts, mortgages, conveyances or other securities, where the whole or any part

of the consideration of such promise, agreement, note, bill, bond, mortgage, conveyance or other security shall be for money or other valuable thing whatsoever won or lost, laid or staked, or betted at or upon any game of any kind or under any name whatsoever, or by any means, or upon any race, fight, sport or pastime, or any wager, or for the repayment of money or other thing of value, lent or advanced at the time and for the purpose, of any game, play, bet or wager, or of being laid, staked, betted or wagered thereon shall be absolutely void; provided, however, that contracts of insurance made in good faith for the security or indemnity of the party insured shall be lawful and valid.

348.17 Gambling house, entry into; assets; seizure of implements. If any person shall make oath before any justice of the peace or other officer authorized by law to issue a criminal warrant that he suspects or has probable cause to suspect that any house or other building is wilfully used as and for a gaming house, for the purpose of gambling for money or other property, and that persons resort to the same for that purpose, such justice or other officer, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant commanding the sheriff or his deputy or any constable to enter into such house or building and to arrest all persons who shall there be found playing for money or otherwise, and also the keeper of the same, and take into their custody all the implements of gaming as aforesaid, and keep the said persons and implements so that they may be forthcoming before such justice or other officer to be dealt with according to law; and any officer who may be charged with the execution of such warrant shall have power, if necessary, to break open doors for the purpose of executing the same and may summon to his aid the power of the county; and it shall be the duty of every judge, justice of the peace and police justice or other officer before whom such prohibited gambling implements, constructions or devices shall be brought to cause the same to be publicly destroyed by burning or otherwise.

Note: For essentials of a valid warrant under this section, see note to 363.01, citing *Bach v. State*, 206 W 143, 238 NW 316. implements seized must be destroyed. There is no authority for sale of same for benefit of county. 27 Atty. Gen. 669.

Punch board prizes seized with punch board may not be destroyed unless physically attached to punch boards. Gambling Money contained in slot machines seized under this section is validly seized and subject to forfeiture. 29 Atty. Gen. 45.

348.171 "Policy" shop; "policy" game. Any person who shall keep, manage or maintain any house, shop, building or other place where the game commonly called "policy" is played, and any person who shall set up, keep, manage or use any device, scheme or contrivance through or by means of which the game commonly called "policy" shall or may be played, or who shall receive any money or article of value paid for, upon or concerning the drawing of any number in any lottery or pretended lottery of any name, nature or description, whether such drawing occurs within or without this state, or who shall stake or bet money or any article of value upon the numbers drawn or pretended to be drawn at the drawing or pretended drawing of any lottery or pretended lottery, within or without this state, or who shall receive or pretend to receive any advice or information, by mail, telegraph or otherwise, of the drawing or result of drawing, or numbers drawn or pretended to be drawn at any lottery or pretended lottery, in or out of this state, and which he shall furnish or use or allow to be used for the purpose of staking, betting or gambling or for determining the result of any stake, bet or game shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars. No person shall be incapacitated, excused or privileged from testifying fully as a witness in any prosecution under this section by reason of any evidence or statement he might give or make which might tend to criminate him; and his testimony when given shall not be used as evidence against him in any criminal prosecution whatever.

348.172 Pool selling; use of premises for, etc. It shall be unlawful for any person, company or corporation to engage in pool selling or bookmaking, or to occupy any room, shed, tenement, tent or building, or any part thereof, or any place upon any public or private grounds with books, apparatus or paraphernalia for the purpose of recording or registering bets or wagers, or selling pools, or to record or register bets or wagers or sell pools upon the result of any trial or contest of skill, speed or power of endurance of man or beast, or upon the result of any political nomination, appointment or election, or upon any other uncertain event or occurrence, or, being the owner, lessee or occupant of any room, tent, tenement, shed, booth or building, or any part thereof, to knowingly permit the same to be used or occupied for any of the above enumerated purposes, or therein to keep, exhibit or employ any book, device or apparatus designed or kept for the purpose of recording or registering such bets or wagers, or the selling of such pools; and it shall also be unlawful for any person to become the custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged, or to be wagered or pledged upon any such result, or to receive, register or record, forward or purport or pretend to forward to or for any race course any money, thing or consideration of value, bet

or wager, or money, thing or consideration offered for the purpose of being bet or wagered upon the speed or endurance of any man or beast, or upon any other future event or occurrence, or to occupy any place or building or part thereof with books, papers, apparatus or paraphernalia for the purpose of receiving or pretending to receive, or for recording or registering, or for forwarding or pretending or attempting to forward, in any manner whatever, any money, thing or consideration of value bet or wagered, or to be bet or wagered for any other person, or to receive or offer to receive any money, thing or consideration of value bet or to be bet at any race track, or to assist or abet in any manner in any of the acts or things hereby forbidden.

348.173 Penalty. Any person, or the officer or agent of any company or corporation, who shall violate any of the provisions of section 348.172 shall, upon conviction thereof, be fined in a sum not less than one hundred dollars and not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding ninety days.

348.174 Inmate of place where pools sold. It shall be unlawful for any person to resort to or become an inmate of any room, shed, tent or place upon any public or private ground within which is carried on any of the acts or things mentioned in section 348.172, and any person found guilty of violating any of the provisions of this section shall be punished by a fine of not more than fifty dollars or by imprisonment in the county jail not exceeding thirty days.

348.175 Bucket shop defined; intent of act. A bucket shop, within the meaning of sections 348.175 to 348.178, is defined to be an office, store or other place wherein the proprietor or keeper thereof, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association or copartnership within or without the state, conducts the business of making, or offering to make, contracts, agreements, trades or transactions respecting the purchase or sale, or purchase and sale, of any stocks, grains, provisions or other commodity, or personal property, wherein both parties thereto, or said proprietor or keeper, contemplate or intend that such contracts, agreements, trades or transactions shall be, or may be, closed, adjusted or settled according to, or upon the basis of, the public market quotations of prices made on any board of trade or exchange, upon which the commodities or securities referred to in such contracts, agreements, trades or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange; or wherein both parties, or such keeper or proprietor shall contemplate or intend that such contracts, agreements, trades or transactions shall be, or may be, deemed closed or terminated when the public market quotations of prices made on such board of trade or exchange, for the articles or securities named in such contracts, agreements, trades or transactions, shall reach a certain figure; and also any office, store or other place where the keeper or proprietor thereof, either in his or its own behalf, or as agent as aforesaid, therein makes or offers to make, with others, contracts, trades or transactions for the purchase or sale of any such commodity wherein the parties do not contemplate the actual or bona fide receipt or delivery of such property, but do contemplate a settlement thereof based upon differences in the prices at which said property is, or is claimed to be, bought and sold. The said crime shall be complete against any proprietor or keeper thus offering to make any such contracts, trades or transactions, whether such offer is accepted or not. It is the intention of sections 348.175 to 348.178 to prevent, punish and prohibit, within this state, the business now engaged in and conducted in places commonly known and designated as "bucket shops," and also to include the practice now commonly known as "bucket shopping" by persons, corporations, associations or copartnerships, who or which ostensibly carry on the business or occupation of commission merchants or brokers in grain, provisions, petroleum, stocks and bonds.

348.176 Penalty; forfeiture. It shall be unlawful for any corporation, association, copartnership or person to keep, or cause to be kept, within this state, any bucket shop; and any corporation or person, whether acting individually or as a member, or as an officer, agent, or employe of any corporation, association or copartnership, who shall keep or assist in the keeping of any bucket shop within this state, shall upon conviction thereof, be fined in a sum not less than twenty-five dollars and not more than one hundred dollars and be imprisoned in the county jail until such fine is paid, not exceeding six months; and any person or persons who shall be judicially determined guilty of a second offense under this statute, in addition to the penalty above prescribed, shall, upon conviction, be imprisoned in the county jail for a period of not less than ten days and not more than sixty days, and if a corporation, shall be liable to forfeiture of its charter; and the continuance of such establishment after the first conviction shall be deemed a second offense.

348.177 An accessory defined; penalty. Any corporation, association, copartnership or person who shall communicate, receive, exhibit or display in any manner, any statements of quotations of the prices of any property mentioned in section 348.175, with a view to any transaction in sections 348.175 to 348.178, prohibited, shall be deemed an

accessory, and upon conviction thereof shall be fined and punished the same as the principal, and as provided in section 348.176.

348.178 A written statement of facts, may be demanded; transactions prima facie valid. It shall be the duty of every commission merchant, copartnership, association, corporation or broker doing business as such to furnish, upon demand, to any customer or principal for whom such commission merchant, broker, copartnership, corporation or association has executed any order for the actual purchase or sale of any of the commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom such property was bought, or to whom it shall have been sold, as the case may be, the time when, the place where, and the price at which the same was either bought or sold; and in case such commission merchant, broker, copartnership, corporation or association shall refuse to promptly furnish such statement upon reasonable demand, the fact of such refusal shall be prima facie evidence that such property was not sold or bought in a legitimate manner. Every purchase or sale, or purchase and sale, and all other transactions by or between members of any lawfully constituted chamber of commerce or board of trade, organized under or by virtue of the laws of this state, and in accordance with the charter of such corporation and the rules, by-laws and regulations adopted thereunder, shall be prima facie valid.

348.179 Trust funds; person holding prohibited from dealing in margins. Any person engaged in the business of receiving deposits of money for safe-keeping, any officer or employe of any bank, banking company, or trust company, any executor, administrator, guardian, trustee, or receiver, or any other person holding property or money in any manner in a trust capacity, who shall buy, sell, deal, or traffic in any goods, stocks, grains, or other property or article of commercial barter by making or requiring any deposit, payment, or pledge of any margin or of any money or property to cover future fluctuation in the price of such goods, stocks, grains, or other property so bought, sold, dealt, or trafficked in, shall be punished by imprisonment in the state prison not more than ten years, nor less than one year.

Note: This section does not apply to a director of a corporation. *Shinners v. State*, 219 W 23, 261 NW 880.

348.18 Issuing and using what is not money. Any person who shall knowingly issue, pay out or pass, and any body corporate, or any officer, stockholder, director or agent thereof who shall issue, pay out or pass, or receive in this state, as money or as an equivalent for money, any promissory note, draft, order, bill of exchange, certificate of deposit or other paper of any form whatever in the similitude of bank paper, circulating as money or banking currency, that is not at the time of such issuing, paying out, passing or receiving expressly authorized by some positive law of the United States or of some state of the United States or of any other country, and redeemable in lawful money of the United States, or current gold or silver coin at the place where it purports to have been issued, such person shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars, and such body corporate shall forfeit all its rights, privileges and franchises and shall also forfeit to the state and pay for each offense the sum of five hundred dollars.

348.19 Fraudulently receiving deposits. Any officer, director, stockholder, cashier, teller, manager, messenger, clerk or agent of any bank, banking, exchange, brokerage or deposit company, corporation or institution, or of any person, company or corporation engaged in whole or in part in banking, brokerage, exchange or deposit business in any way, or any person engaged in such business in whole or in part who shall accept or receive, on deposit, or for safe-keeping, or to loan, from any person any money, or any bills, notes or other paper circulating as money, or any notes, drafts, bills of exchange, bank checks or other commercial paper for safe-keeping or for collection, when he knows or has good reason to know that such bank, company or corporation or that such person is unsafe or insolvent shall be punished by imprisonment in the state prison not more than ten years nor less than one year or by fine not exceeding ten thousand dollars.

Note: For effect of use of "or" instead of "and" in charging an offense, see note to 355.33, citing *State v. Kitzerow*, 221 W 436, 267 NW 71.

348.20 Contracts void. All contracts of any kind whatever the consideration of which, in whole or in part, shall consist of any such paper as is prohibited in the next to the last preceding section, and all payments made in such unauthorized paper shall be null and void.

348.201 Violation of election laws. (1) Any act concerning or affecting caucuses or elections which has been declared by these statutes to be an offense shall also be the same offense when the same act concerns or relates to primaries, and shall be punished in the same form and manner and to the same extent.

(2) Any person who forges any name of an apparent signer or witness or date to a nomination paper or petition for the recall of an elective officer is guilty of forgery, and on conviction thereof shall be punished accordingly.

(3) Any person who, being in possession of nomination papers entitled by law to be filed, wrongfully either suppresses, neglects or fails to cause the same to be filed at the proper time in the proper office shall upon conviction thereof be punished by imprisonment in the county jail not to exceed six months, or by fine not to exceed five hundred dollars, or by both such fine and imprisonment, in the discretion of the court. [1933 c. 44 s. 2]

348.21 Illegal voting; fraudulent registration. Any person who shall vote at any general or special election, town meeting or election, school meeting or election, city, village or charter election, not having the requisite qualifications and residence as a legal voter, or having no right to vote by reason of disfranchisement or other disqualification at the time and place of such election, or who shall cause or procure his registration by any board of registry as a legal voter in any election district, when he shall not at the time have the requisite qualifications to entitle him to be registered in such district, or who shall wilfully make any false statement not under oath to the inspectors of any election or to any board of registry when offering to vote or to be registered as a voter in any election district in respect to his qualifications or residence as a voter in such district, or who shall cause or procure his name to be registered as a voter in more than one election district for one and the same election, or who shall falsely personate another person registered as a voter in any election district, or who shall vote more than once at the same election, or who shall procure, aid, assist, counsel or advise another to do any act hereinbefore specified shall be punished by imprisonment in the state prison not more than three years nor less than one year or in the county jail not more than one year, or by fine not exceeding two hundred dollars. It shall be the duty of the election board to post a copy of this law in a conspicuous place in the election booth prior to the holding of said election.

348.211 Personation of elector. A person shall, for all purposes of this section, be deemed guilty of the offense of personation who, at any election held pursuant to the laws of this state, applies for a ballot paper in the name of some other person, whether that name be of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own name or any other name; and any person who commits the offense of personation or who aids, abets, counsels or procures the commission of that offense shall be punished by imprisonment in the state prison for a term of not less than two years nor more than five years.

348.212 Contributions to aid nomination, etc., of legislators. No person shall, directly or indirectly, give, subscribe, promise or pay or agree to pay any sum of money or thing of value to procure or aid in procuring the nomination or election of any person to the senate or assembly of this state unless the person so making such subscription, promise, payment or agreement is a citizen or bona fide resident of the district in which such other person is or seeks to be chosen, voted for or elected; provided, that this provision shall not apply to the payment by any person participating in a campaign of his own personal expenses therein nor to the promise or payment, otherwise lawful, of any sum to any political committee in the state or in any district or region thereof, of which the promisor or payor is a citizen or resident, for general lawful purposes and without any agreement or understanding, express or implied, that it be used or applied to the procuring of the nomination or election of any person or persons in particular to said senate or assembly. Any person offending against the provisions of this section shall be punished by imprisonment in the county jail not less than one month nor more than one year.

348.213 Disbursements by committees. Every two or more persons who shall be elected, appointed or chosen by a political convention or caucus for the purpose, wholly or in part, of raising, collecting or disbursing money or of controlling or directing the raising, collection or disbursement of money for election purposes, and shall undertake such duty, shall be deemed a political committee within the meaning of this section and sections 348.214, 348.215 and 348.216. Every such committee shall appoint and constantly maintain a treasurer to receive, keep and disburse all sums of money which may be collected, received or disbursed by such committee or by any of its members for any of the purposes mentioned in this section for which such committee exists or acts. Every member of such committee who shall keep or disburse any money collected or received for the purposes herein mentioned, without the same having been first paid and made to pass through the hands of such treasurer, or who shall fail to pay over to such treasurer all money received or collected by him for such purposes shall be punished by imprisonment in the county jail for not less than two months nor more than six months.

348.214 Treasurer's accounts. Every treasurer of a political committee and every person who shall at any time act as such treasurer shall, whenever he receives or disburses money as such treasurer or for or on account of any of the objects or purposes mentioned

in section 348.213, immediately enter and thereafter keep in a proper book or books to be provided and preserved by him a full, true and detailed statement and account of each and every sum of money so received by him, setting forth in such statement the sum so received or disbursed, as the case may be, and the date when and the person from whom received and to whom paid, and the object and purpose for which the sum was received or disbursed.

348.215 Statement of accounts. (1) Every treasurer of a political committee and every person who shall act as such treasurer shall, within thirty days after each and every election, whether state, county, city, municipal, township or district, in or concerning or in connection with which he shall have received or disbursed any money for any of the objects or purposes mentioned in section 348.213, prepare and file in the office of the register of deeds of the county in which such treasurer or person lives a full, true and detailed account and statement, subscribed and sworn to by him, setting forth each and every sum of money received or disbursed by him for any of the objects or purposes mentioned in said section, within the period of ninety days before such election and ending on the day on which such statement is filed, the date of each receipt and of each disbursement, the name of the person to whom paid, and the object or purpose for which the same was disbursed.

(2) Such statement shall also set forth the unpaid debts and obligations, if any, of such committee, with the nature and amount of each and to whom owing, in detail; and if there are no unpaid debts or obligations of such committee such statement shall state such fact. Such register of deeds shall receive and file in his office and keep there for one year after they are filed all statements and accounts so required to be filed with him, and they shall at all reasonable times be open to public inspection. After one year succeeding the filing of such statements and accounts they shall be destroyed by such officer or his successor.

348.216 Penalty. Every treasurer of a political committee who shall either:

(1) Neglect or fail to keep a correct book or books of account setting forth all the details required to be set forth in the account and statement contemplated in the foregoing sections, with intent to conceal the receipt or disbursement of any sum received or disbursed by him or any other person, or the purpose or object for which the same was received or disbursed by him or any other person, or the purpose or object for which the same was received or disbursed, or to conceal the fact that there is any unpaid debt or obligation of such treasurer or committee, or the nature or amount thereof, or to whom owing, in detail; or,

(2) Mutilate, deface or destroy any such book or books of account, with intent to conceal any fact disclosed by such book or books; or,

(3) Fail to file the statement and account contemplated by section 348.215, if due, within five days after he shall receive notice in writing signed by five resident freeholders of the county in which such treasurer or political committee or person resides, requesting him to file such statement and account, shall be imprisoned in the county jail for not less than two or more than six months.

348.217 Officers not to change ballot. No officer of election shall issue, write, change or alter for any person on any election day any ballot, and any such officer who shall violate any of the foregoing provisions, or mark any ballot, except as provided by law, or disclose how any elector shall have voted, unless required to do so as a witness in a judicial proceeding, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment.

348.218 Neglect to make election returns. If the person to whom the returns specified in section 6.59 are delivered shall fail or neglect to send or deliver them to the county clerk within the time specified in said section for that purpose, he shall be liable for all expenses incurred in procuring such returns by special messenger or otherwise, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than twenty days or by both such fine and imprisonment.

348.219 Official neglect at local elections. Any public officer who shall wilfully fail or neglect to perform any duty imposed upon him by the provisions of sections 10.01 to 10.31, or knowingly make any false certificate in respect to such duty, or to any matter to which he may be required by law to officially certify, shall be punished by imprisonment in the county jail not exceeding nine months, or by fine of not more than five hundred dollars and the costs of the prosecution.

348.22 Preventing employe from acting as election inspector or clerk. Any employer of labor who refuses to allow an employe to serve as election inspector or ballot clerk, or makes any threats or offers any inducements of any kind to such employe for the purpose of preventing such employe from serving as such inspector or clerk, shall be punished by imprisonment in the county jail or house of correction not exceeding 9 months, or by a fine of not more than \$500 and costs of prosecution.

348.221 Penalty for requiring employes to work on half holidays in cities of the first class. No employer of labor in any city of the first class shall ask or require any of his employes to do any manner of labor or work during the afternoon of any day on which a primary election is held in such city for the nomination of candidates for city offices, except works of necessity or charity. Every person violating this section or knowingly contributing to such violation shall be punished by a fine not exceeding twenty-five dollars.

348.222 Officers' neglect of duty regarding voting machines. Any public officer upon whom any duty is imposed by chapter 11, who shall wilfully neglect or omit to perform such duties, or do any act prohibited by said chapter for which punishment is not otherwise provided shall upon conviction be imprisoned in the state prison for not less than one year nor more than three years, or be fined in a sum not exceeding one thousand dollars, or may be punished by both such imprisonment and fine.

348.223 Tampering with machine after placed in booth. Any person not being an election officer who, during any election or before any election, after a voting machine has had placed upon it the ballots for such election, who shall tamper with such machines, disarrange, deface, injure or impair the same in any manner, or mutilate, injure or destroy any ballot placed thereon or to be placed thereon or any other appliance used in connection with such machine, shall be imprisoned in the state prison for a period of not more than ten years, or be fined not more than one thousand dollars, or be punished by both such fine and imprisonment.

348.224 Tampering with machines to affect result. Whoever, being an inspector of election with intent to permit or cause any voting machine to fail to correctly register or record any vote cast thereon, tampers with or disarranges such machine in any way, or any part or appliance thereof, or who causes or consents to said machine being used for voting at any election with knowledge of the fact that the same is not in order, or not perfectly set and adjusted, so that it will correctly register or record all votes cast thereon or who, for the purpose of defrauding or deceiving any voter or of causing it to be doubtful for what ticket or candidate or candidates or proposition any vote is cast, or of causing it to appear upon said machine that votes cast for one ticket, candidate or proposition were cast for another ticket, candidate or proposition, removes, changes or mutilates any ballot on said machine, or any part thereof, or does any other like thing shall be imprisoned in the state prison not more than ten years, or fined not exceeding one thousand dollars, or punished by both such fine and imprisonment.

348.225 Incorrect return of result. Any inspector or clerk of an election who shall purposely cause the vote registered or recorded on or in such machine to be incorrectly taken down as to any candidate or proposition voted on, or who shall knowingly cause to be made or signed any false statement, certificate or return of any kind, of such vote, or who shall knowingly consent to such things, or any of them being done, shall be imprisoned in the state prison not more than ten years, or fined not more than one thousand dollars, or punished by both such fine and imprisonment.

348.226 Penalty for violations. Any person violating any provision of chapter 12 shall upon conviction thereof, be punished by imprisonment in the county jail for a period of not less than one month nor more than one year, or by imprisonment in the state prison for a period of not less than one year nor more than three years, or by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by both such fine and imprisonment; and no person so convicted shall be permitted to take or hold the office to which he was elected, if any, or receive the emoluments thereof.

348.23 Fraudulent canvass of votes. Any member of a board of canvassers of votes cast at any election who shall knowingly make or assist in making any untrue or false statement or canvass of such votes or any false certificate thereof, or who shall wilfully alter or destroy any statement or canvass of such votes or certificate thereof truly made after the same is made, or any return, statement, canvass or certificate of such votes made to such board of canvassers, or any member of the state board of canvassers of votes cast at any election who shall make or assist in making any canvass or statement of such votes, or sign or make or assist in making any certificate of the correctness thereof which shall include or contain any votes or statement or return of votes in the form of additional or supplemental returns, or who shall count, canvass or consider any such additional or supplemental returns in determining the result of any election shall be punished by imprisonment in the state prison not more than three years nor less than one year, or in the county jail not more than one year, or by fine not exceeding five hundred dollars.

348.231 Fraud as to nomination papers, ballots, etc. Any person who shall falsely make, or make oath to, or fraudulently deface or fraudulently destroy any certificate of nomination or nomination paper or any part thereof, or file or receive for filing any certificate of nomination or nomination paper knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed or any

part thereof, or forge or falsely make the official indorsement on any ballot, or wrongly print or cause to be printed, with intent to change the result of the election as to any candidate or nominee, any official ballot, or any ballot clerk who shall deliver to a voter a ballot bearing a mark opposite the name of a candidate made with a pencil or ink, that might be counted as a vote for such candidate, shall be punished by imprisonment in the state prison not more than three years nor less than one year.

Note: A complaint for slander not charging special damages is insufficient unless the words are actionable per se. Advising a printer to wrongfully print official ballots with intent to change the result of an election is a felony, though the ballots are not changed. *Wood v. Plackey*, 202 W 247, 232 NW 564.

348.232 Neglect by election officers. Any public officer who shall wilfully fail or neglect to perform any duty imposed upon him by the provisions of title II of these statutes relating to elections, or knowingly make any false certificate in respect to such duty, or to any matter which he may be required by law to certify to officially, shall be punished by imprisonment in the county jail not exceeding nine months nor less than three months or by fine of not more than five hundred dollars nor less than two hundred dollars.

348.233 Neglect to deliver ballots; removal of supplies. Any person who shall undertake to deliver the official ballots prepared for any election to any clerk or inspector of election, or who shall wilfully or negligently fail to deliver the same or cause their delivery within the time required by law, or who, having charge of such ballots, shall destroy or conceal them, and any person who shall remove or destroy any of the supplies or conveniences placed in the shelves or compartments or polling booths for the purpose of enabling voters to prepare their ballots, shall be punished by imprisonment in the county jail not more than six months nor less than three months or by fine not exceeding three hundred dollars nor less than one hundred dollars.

348.234 Electioneering; marking ballot, etc. (1) No officer of any election held under the provisions of title II of these statutes shall engage in electioneering on the day on which any such election is held, nor shall any person solicit votes for any candidate or party or engage in any electioneering whatever on the day of any such election within one hundred feet of any polling place, nor remove any ballot from any polling place before the polls are closed, nor show his ballot after it is marked to any person in such a way as to reveal the mark or marks made thereon, nor solicit any person to so show his ballot.

(2) No person except an inspector of election shall receive from any voter a ballot that has been prepared for voting; nor shall any voter receive a ballot from any other person than one of the ballot clerks in charge of the ballots, nor shall any other person than such clerks deliver a ballot to any voter; no voter shall vote or offer to vote any ballot except it has been received from one of the ballot clerks, nor shall he place any mark upon his ballot by which it may be identified as the one he voted; and every voter who does not vote the ballot delivered to him by the ballot clerks shall, before leaving the polling place, return such ballot to such clerks or one of them.

(3) Whoever shall violate any of the provisions of this section shall be punished by imprisonment in the county jail not exceeding six months, or by fine of not more than three hundred dollars nor less than fifty dollars, or by both fine and imprisonment with the costs of prosecution.

348.235 Neglect as to special matters. Any officer whose duty it is to appoint inspectors of election, clerks of election or ballot clerks, who shall disobey the provisions of law requiring, when it is practicable to do so, the appointment thereof from opposing political parties; any officer required by law to provide election booths and compartments with doors, screens or curtains, who shall fail to provide and maintain the same; any election officer who shall take notice of the manner in which any elector shall mark his ballot, unless request be made to him to assist in doing so, or permit any other person to pry into or take notice of the same, and any officer who assists a voter at his request, or otherwise becomes aware of the manner in which a voter marked his ballot, or for whom he voted, and discloses the same to any other person, except in the course of judicial proceedings, shall be punished by imprisonment in the county jail not more than thirty days nor less than ten days, or by fine not exceeding one hundred dollars nor less than twenty-five dollars, or by both such fine and imprisonment.

348.236 Neglect to deliver statement. Any person who shall accept from any board of election inspectors the statement of the canvass of the votes prepared by them for the delivery thereof to the proper town, city or village clerk as required by law, and who shall fail to deliver the same or cause its delivery to be made to the proper clerk within forty-eight hours after accepting the same for that purpose, without sufficient excuse for such failure, shall be punished as is provided in section 348.235.

348.237 Such neglect by officers and messengers. Any chairman of any board of election inspectors, or any inspector appointed by him to deliver to any town, city or vil-

lage clerk any statement of the result of the canvass of any votes made by such board or any duplicate of the same to be delivered to any county clerk, who shall fail or neglect to deliver such statement to the proper town, city or village clerk forthwith, or to deliver such duplicate statement to the proper county clerk within two days after the election as required by law; any messenger sent by any board of canvassers for election returns or with such returns for the correction thereof, who shall wilfully fail to perform that duty or who shall unlawfully keep back or fail to deliver any returns so intrusted to him, shall, in addition to any other punishment provided by law for withholding, suppressing, destroying or failing to deliver such returns, be punished by imprisonment in the county jail not more than thirty days nor less than ten days, or by fine not exceeding fifty dollars nor less than twenty-five dollars, or by both such imprisonment and fine.

348.24 Neglect and fraud in conducting elections. Any inspector of elections who shall, after the polls are open to receive votes, put into any ballot box any vote, other than his own or the vote of another lawfully received, or who shall receive or consent to the reception of the vote of any person, knowing that such person has not the requisite qualifications and residence of a legal voter, or of any person who shall refuse to make the oath or affirmation required by law or to answer any proper question put to him in respect to his qualification or residence as a voter, or who shall refuse or wilfully neglect or sanction the refusal or wilful neglect of another inspector to put such proper questions or administer such oath or affirmation to any person offering to vote; or any member of a board of registry who shall register the name of any person as a legal voter in any election district or consent to such registration, knowing that such person has not the requisite qualifications to entitle him to be registered in such district, or when such person shall have refused to take the oath or affirmation required by law or to answer the questions put to him in respect to his qualifications to be registered in such district, or who shall refuse or wilfully neglect to put such questions or administer such oath or affirmation to such person; or any inspector or clerk of elections who shall knowingly make, assist in making or cause to be made any false statement or return of the votes cast at any election, or who shall wilfully alter or destroy any registration list, poll book or return of said votes, or who shall refuse or wilfully neglect to make any statement, canvass, certificate or return of said votes as required by law; or any inspector, member of any board of registry, member of any board of canvassers, or any officer or other person from whom any duty or service is required by law in respect to any election, who shall refuse or wilfully neglect to perform such duty or render such service, or who shall wilfully violate any provision of law or be guilty of any fraud in respect to any election shall be punished by imprisonment in the state prison not more than three years nor less than one year, or in the county jail not more than one year, or by fine not exceeding five hundred dollars, except as is otherwise provided in these statutes.

348.241 Election officers; additional penalty; disqualifications. Any election officer who shall be convicted of any violation of the election laws, shall, in addition to the punishment otherwise provided by law, be disqualified to act as an election official for a term of five years from the time of said conviction.

348.25 Deceiving elector. Any person who shall furnish an elector who cannot read with a ticket, informing him that it contains a name or names different from those which are written or printed thereon, with intent to induce him to vote contrary to his inclination, or who shall fraudulently or deceitfully change a ballot of any elector, by which such elector shall be prevented from voting for such candidate or candidates as he intended, or who shall fraudulently put any ballot or ticket into the ballot box shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.

348.26 Breaking ballot box, etc. Any person not authorized by law who shall, during the progress of any election in this state or after the closing of the polls and before the ballots are counted and the result ascertained, break open or violate the seals or locks of any ballot box in which ballots have been deposited at such election, or who shall obtain unlawful possession of such ballot box containing such ballots, or shall conceal, withhold or destroy the same, or who shall wilfully, fraudulently or forcibly add to or diminish the number of ballots legally deposited in said ballot box, or any person who shall aid or abet in so doing shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by fine not exceeding three thousand dollars nor less than one thousand dollars.

348.261 Solicitations by assessor. Any assessor who shall ask, solicit or receive from the owner of property situated in and liable to assessment in his assessment district, or the agent or attorney of such owner any reward, favor, money or other thing of value for the valuation or assessment of said property of such owner, at less than the true cash value thereof or at a lower value than such property should have been assessed, shall be

punished by imprisonment in the county jail not more than six months or by fine not exceeding five hundred dollars.

348.262 Soliciting assessor. Any person who shall ask or solicit any trade or business of or from the owner of any property situated in and liable to assessment in his assessment district, or the agent, attorney or any member of the family of such owner, in pursuance of any agreement expressed or implied, that in consideration of such trade or business, in whole or in part or otherwise, the said property of such owner shall be valued or assessed at less than the cash value thereof, or less than the property would otherwise be valued and assessed, shall be punished by imprisonment in the county jail not more than six months or by a fine not exceeding five hundred dollars.

348.263 Offers of rewards, etc., to assessor or member of board of review. Every person who shall offer to give or shall give directly or indirectly, to any assessor, or member of a board of review, or for his use or benefit, any reward, money or other thing of value, to assess or value the property of such person at less than its true cash value or lower than it should be assessed or valued, shall be punished by imprisonment in the county jail not more than six months or by a fine not exceeding five hundred dollars.

348.264 Fraudulent valuations by assessor. Any assessor who shall intentionally fix the value of any property assessed by him at less or more than the true value thereof prescribed by law for the valuation of the same, or shall intentionally omit from assessment any property liable to taxation in his assessment district, or shall otherwise intentionally violate or fail to perform any duty imposed upon him by law relating to the assessment of property for taxation, shall forfeit to the state not less than fifty dollars nor more than two hundred and fifty dollars.

348.265 Fraud by member of board of review. Any member of the board of review of any assessment district who shall intentionally fix the value of any property assessed in such district, or shall intentionally agree with any other member of such board to fix the value of any of such property at less or more than the true value thereof prescribed by law for the valuation of the same, or shall intentionally omit or agree to omit from assessment, any property liable to taxation in such assessment district, or shall otherwise intentionally violate or fail to perform any duty imposed upon him by law relating to the assessment of property for taxation, shall forfeit to the state not less than fifty nor more than two hundred and fifty dollars.

348.266 Civil liability of assessor or member of board of review. If any assessor or any member of the board of review of any assessment district shall be guilty of any violation or omission of duty as specified in sections 348.264 and 348.265, he shall be liable in damages to any person or persons who may sustain loss or injury thereby, to the amount of such loss or injury; and any person sustaining such loss or injury shall be entitled to all the remedies given by law in actions for damages for tortious or wrongful acts.

348.267 Obstruction or falsification of civil service examinations. (1) Any commissioner, or examiner, or any other person who wilfully, by himself or in co-operation with one or more persons, defeats, deceives or obstructs any person in respect of his or her rights of examination or registration, according to sections 16.01 to 16.30, or to any rules or regulations prescribed pursuant thereto, or

(2) Who wilfully, or corruptly, falsely marks, grades, estimates or reports upon the examination or proper standing of any person examined, registered or certified, pursuant to the provisions of said sections, or aids in so doing, or

(3) Who wilfully or corruptly makes any false representations concerning the same, or concerning the person examined, or

(4) Who wilfully or corruptly furnishes any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any persons so examined, registered or certified, being appointed, employed or promoted, or

(5) Who personates any other person, or permits or aids in any manner any other person to personate him or her, in connection with any examination, or registration or application or request to be examined or registered, shall for each offense be deemed guilty of a misdemeanor.

348.268 Solicitation of subscriptions, etc., by state officers and employes prohibited. No officer, agent, clerk or employe of this state shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription or contribution, or political service, whether voluntary or involuntary, for any political purpose whatever, from any officer, agent, clerk or employe of the state. Every said officer, agent, clerk or employe who has charge or control in any building, office or room occupied for any purpose of said government is hereby authorized to prohibit the entry of any person, and he shall not permit any person to enter the same for the purpose of therein making, collecting, receiving or giving notice, of any political assessment, subscription or contribution, and no person shall enter, or remain in any said office, building

or room, or send or direct any letter or other notice thereto, for the purpose of giving notice of, demanding, or collecting a political assessment, subscription or contribution, nor shall any person therein give notice of, demand, collect or receive, any such assessment, subscription or contribution. Any person who violates any provision of this section shall be guilty of a misdemeanor.

348.269 Prohibited appointments punished. Whoever, after a rule has been duly established and published, according to the provisions of sections 16.01 to 16.30, makes an appointment to office or selects a person for employment, contrary to the provisions of such rule, or wilfully refuses or neglects otherwise to comply with, or to conform to, the provisions of sections 16.01 to 16.30, or violates any of such provisions, shall be deemed guilty of a misdemeanor. If any person shall be convicted under this section, any public office which such person may hold shall by force of such conviction be rendered vacant, and such person shall be incapable of holding office for the period of five years from the date of such conviction.

348.27 Misdemeanors, how punished. Misdemeanors under the provisions of sections 348.267, 348.268, 348.269 shall be punishable by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment in the discretion of the court.

348.271 Influencing voter by promise of appointment or threat of removal. (1) Whoever, while holding any public office, or in nomination for, or while seeking a nomination or appointment for, any public office, shall use or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment or public contract or any nomination, confirmation, promotion, or increase in salary, upon a consideration or condition that the vote or political influence or action of the last-named person or any other, shall be given or used in behalf of any candidate, officer, or party, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery, or an attempt at bribery as the case may be. And whoever, being a public officer or having or claiming to have, authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal, increase or decrease of salary, or position of any public officer, shall use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the vote or political action of any citizen, or the removal, discharge or promotion of any officer or public employe, or upon any other corrupt consideration, shall also be guilty of bribery or of an attempt at bribery as the case may be.

(2) Every person found guilty of such bribery or of an attempt to commit the same as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars nor more than three thousand dollars, or to be imprisoned not less than ten days nor more than two years, or to both said fine and imprisonment in the discretion of the court. The phrase "public officer" shall be held to include all public officials in this state, whether paid directly or indirectly from the public treasury of the state, or by fees or otherwise, and the phrase "public employe" shall be held to include every person not being an officer who is paid from said treasury of the state.

348.272 Violations county civil service. Any person who wilfully, or through culpable negligence, violates any provisions of sections 16.31 to 16.44, or any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in the county jail for a term of not less than thirty days, nor more than one year or by both such fine and imprisonment in the discretion of the court.

348.273 Violations city civil service; vacates office; disqualification; prosecution. (1) Any person who wilfully, or through culpable negligence, violates any provision of sections 16.45 to 16.76, or any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than fifty dollars, and not exceeding one thousand dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

(2) If any person is convicted under this section, any public office which such person holds shall, by force of such conviction, be rendered vacant, and such person shall be incapable of holding office for the period of five years from the date of such conviction.

(3) Prosecutions for violations of sections 16.45 to 16.76, may be instituted either by the attorney-general, the district attorney for the county in which the offense is alleged to have been committed, or by the board of city service commissioners acting through special counsel. Such prosecutions shall be conducted and controlled by the prosecuting officers who institute them, unless they request the aid of other prosecuting officers.

348.28 Public officers; malfeasance. Any officer, agent or clerk of the state or of any county, town, school district, school board or city therein, or in the employment thereof, or any member of any town board or village board, or any officer, regent, treasurer, secretary, superintendent, clerk or agent of any penal, correctional, educational or charitable institution instituted by or in pursuance of law within this state, or any member of any body or board having charge or supervision of such institution who shall have, reserve or acquire any pecuniary interest, directly or indirectly, present or prospective, absolute or conditional, in any way or manner, in any purchase or sale of any personal or real property or thing in action, or in any contract, proposal or bid in relation to the same, or in relation to any public service, or in any tax sale, tax title, bill of sale, deed, mortgage, certificate, account, order, warrant or receipt made by, to or with him in his official capacity or employment, or in any public or official service, or who shall make any contract or pledge, or contract any indebtedness or liability, or do any other act in his official capacity, or in any public or official service not authorized or required by law, or who shall make any false statement, certificate, report, return or entry in any book of accounts or of records in respect to anything done or required to be done by him officially, or in any public or official service, or who shall ask, demand or exact for the performance of any service or duty imposed upon him by law any greater fee than is allowed by law for the performance of such service or duty, shall be punished by imprisonment in the county jail not more than one year, or in the state prison not more than 5 years, or by fine not exceeding \$500; but the provisions of this section shall not apply to the designation of public depositories for public funds nor to temporary loans made to any county, town, school district, school board, city or village pursuant to section 67.12, nor to the publication of legal notices required to be published by any town, city, village, school district, school board or county, or by any town, city, village, school district, school board or county officer, at a rate not higher than that prescribed by law, nor to contract for the sale of printed matter or any other commodity, not exceeding \$100 in any one year except as to second, third and fourth class cities, or any school district, or school board, or any school officer therein, the amount shall be \$300, nor to any notes, orders, warrants or other instruments representing an interest in, or secured by, any fund consisting in whole or part of taxes in the process of collection, tax sale certificates or tax titles, when such notes, orders, warrants or other instruments shall have been issued in payment of salary or other obligations due to such officer, agent or employe. Any contract, to which the state or any county, city, village, town, school board or school district is a party, entered into in violation of the provisions of this section, shall be absolutely null and void and the state, county, city, village, town, school board or school district shall incur no liability whatever thereon. The term "temporary loan" as used in this section means and includes any loan which matures not more than one year from the date of such loan. [1933 c. 224; 1937 c. 270; 1941 c. 80]

Note: Member of county "road committee" cannot recover for work on highways. Winter Case, 159 W 437, 150 NW 526, overruled. Henry v. Dolen, 136 W 622, 626, 203 NW 369.

Where an official having discretion in a matter acts on his judgment in good faith, although erroneously, such acts are not corrupt, and likewise the taking of no action in his discretion, if error, is not "neglect," within the meaning of this section and 348.29. State ex rel. Schwenker v. District Court of Milwaukee County, 206 W 600, 240 NW 406.

This section is construed as not making it an offense for an officer, agent or clerk of the state or of a municipality to have a pecuniary interest in the purchase or sale of property unless the purchase or sale is made by, to, or with him in his official capacity or employment, or in some public or official service. State v. Bennett, 213 W 456, 252 NW 298.

The court states the various tests which are to be applied in determining whether the acts charged against the secretary of the public service commission constitute malfeasance in office. State ex rel. Dinneen v. Larson, 231 W 207, 234 NW 21, 236 NW 41.

The evidence, as well as being sufficient to sustain a conviction for embezzlement of county funds, was sufficient to sustain a conviction for malfeasance in office by making false entries in official books of account, the element of felonious intent being sufficiently proved also as to the latter offense, if necessary thereto, a point not determined. State v. Davidson, 242 W 406, 8 NW (2d) 275.

Contracts for purchases by "county highway committee" from business enterprise in which county highway commissioner had interest is void. 19 Atty. Gen. 58.

Voting and accepting salary by city councilmen contrary to explicit statute is offense under 348.28. 19 Atty. Gen. 133.

Notary public is criminally liable for making false certificate of acknowledgment of deed over telephone, although he believed that such party had actually executed deed. 19 Atty. Gen. 626.

Member of school board which contracts with his wife to teach in school probably is guilty of malfeasance and contract probably is void. 20 Atty. Gen. 362.

Mayor of city who is stockholder in bank that, as highest bidder, purchased bonds from city is liable under this section, being interested in contract with city. But city clerk, who is not stockholder in bank is not liable. 21 Atty. Gen. 626.

District attorney may receive rent money paid by city poor relief officers for support of indigent tenants living in his house. 22 Atty. Gen. 139.

Person who has been hired by county highway committee to work on road as local patrolman may qualify as member of county board and retain that job. 22 Atty. Gen. 308.

Teaching contract of teacher who is minor daughter of one of members of school board making contract is probably invalid. 24 Atty. Gen. 113.

In the light of State v. Bennett, 213 W 456, 252 NW 298, the application of this section to several specific situations is discussed in 24 Atty. Gen. 180.

Alderman selling gas to city and repairing city vehicles violates this section and may be punished, although his office is not thereby vacated. 24 Atty. Gen. 210.

Member of local vocational school board may sell articles to city in excess of one

hundred dollars, as contract is not made through him in his official capacity. 24 Atty. Gen. 243.

When store in which county board member has interest sells more than one hundred dollars' worth of relief supplies to county in one year board member violates this section. 24 Atty. Gen. 260.

Whether village official may sell to village other services than those required by his office depends upon whether his individual interest is in opposition to his official position. Village official generally may not sell supplies to village relief department in excess of one hundred dollars per year. 24 Atty. Gen. 422.

Crime committed under this section is not affected by financial settlement reimbursing town whose property was unlawfully taken. 24 Atty. Gen. 447.

President of village is not violating this section by being employe of utility owned by village, but see 61.33. 24 Atty. Gen. 519.

Purchase of tax certificates by county board member as agent for another does not violate this section. 24 Atty. Gen. 666.

Purchase of tax certificates by town and school district officers is not violative of this section. In view of 62.21 (4), it is inadvisable for town officers to purchase tax certificates covering land in their own municipalities. 25 Atty. Gen. 295.

Member of county board employed on salary by his father, general contractor, is guilty of malfeasance if he sell material to county amounting to several hundred dollars a year. 25 Atty. Gen. 308.

Expenditure of public money by town officers upon resolution passed at town board meeting to expend money on private right-of-way is unlawful and prosecution under this section will lie against such officers. 25 Atty. Gen. 434.

Contract which is not void under this section at time it was entered into between

village and corporation does not become void purely because stockholder of said corporation becomes member of village board prior to complete performance of terms of contract. 26 Atty. Gen. 444.

See note to 40.57, citing 27 Atty. Gen. 82.

Dentist who is member of county board may not perform services for indigent, services of whom are approved in advance of performance by pension department and bill for services of whom is ultimately paid out of children's aid fund, which is in part created by appropriations by county board. 28 Atty. Gen. 58.

This section prohibits member of county board from working as county highway employe. 28 Atty. Gen. 522.

When county is on system of county poor relief county supervisor may not furnish goods or services to relief clients in excess of statutory exemption. Attempted distinction sought to be drawn between civil and criminal aspects of statute in 24 Atty. Gen. 312, 315, is unsound in light of *Reetz v. Kitch*, 230 W 1, 283 NW 348. 28 Atty. Gen. 669.

See note to 74.50, citing 29 Atty. Gen. 197.

Member of county board who is not member of county highway committee may sell land to county without violating this section if purchase is made by highway committee. 29 Atty. Gen. 415.

Under 62.09 (7) (d) it is unlawful for supervisor elected from ward in city to county board to sell insurance to city if annual premium exceeds \$300, irrespective of his share of commission thereon. He does not violate 348.23 by selling insurance on city school buildings. He does violate 348.23 by selling insurance on city buildings other than schools if he is also member of common council of city from which he is elected. 31 Atty. Gen. 93.

348.281 Grafting. Except as specifically authorized by statute, no officer or employe of the state shall, directly or indirectly, receive or accept any sum of money, or anything of value, for the furnishing of any information, or performance of any service whatever relating in any manner to the duties of such officer or employe. Any person violating this section shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or more than six months' imprisonment in the county jail, or by both such fine and imprisonment.

348.29 Discounting claims; neglect of duty. Any person mentioned in section 348.28 who shall pay, redeem, discount or purchase any debt, claim or demand in favor of any other person, against the state, or any county, town, school district, school board, city or village therein, or against any fund thereof below the true and full amount thereof, or who shall pay any such debt, claim or demand for any purpose out of any fund not provided for such purpose, or who shall wilfully violate any provision of law authorizing or requiring anything to be done or prohibiting anything from being done by him in his official capacity or employment, or who shall refuse or wilfully neglect to perform any duty in his office required by law, or shall be guilty of any wilful extortion, wrong or oppression therein shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

348.291 Misuse of loans from the trust funds. Any supervisor, chairman of any town or county board, mayor of any city, president of any village or treasurer of any town, county, city or village who shall make or sign any order or warrant, or pay out or suffer or cause to be appropriated or paid out any moneys derived by loans from the state trust funds contrary to the provisions of section 25.10, shall be punished by confinement at hard labor in the state prison for a term not exceeding five years or by fine not exceeding one thousand dollars or by both such fine and imprisonment.

348.30 Officers not to buy at tax sales. Any county treasurer or county clerk or any of their deputies or clerks, or any other person for them or any of them, who shall purchase, directly or indirectly, any property sold for taxes at any tax sale or any tax certificate or tax deed held by the county, except for and on behalf of the county as now provided by law, shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars; and any tax deed or tax certificate issued upon such unlawful purchase shall be null and void; but no money paid into the county treasury on account thereof shall be refunded to such purchaser or to any person on his behalf.

348.301 Discount of fees by register of deeds, prohibited. (1) No register of deeds, by himself, his deputy, assistant or employe, shall pay, allow or give, or offer to pay, allow or give, either directly or indirectly, any rebate or discount on any fee allowed by law to registers of deeds.

(2) Any register of deeds who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not to exceed ninety days, or by both such fine and imprisonment.

348.31 Appointing deputy for reward. Any person holding or exercising any office under the laws or constitution of this state who shall, for any reward or gratuity paid or promised, grant to another the right or authority to discharge any of the duties of such office as deputy or otherwise, or any person who shall give or promise any such reward or gratuity in consideration of any such grant or deputation shall be punished by fine not exceeding five hundred dollars, and such grant or deputation shall be void; and such officer so offending shall forfeit his office and be disabled from holding the same for the remaining term thereof.

348.311 Passes and franks. (1) No person, association, copartnership or corporation, shall offer, or give, for any purpose, to any political committee, or any member or employe thereof, to any candidate for, or incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality, of this state, or to any person at the request or for the advantage of all or any of them, any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property, or the transmission of any message or communication.

(2) No political committee, and no member or employe thereof, no candidate for and no incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality, of this state, shall ask for, or accept, from any person, association, copartnership or corporation, or use in any manner, or for any purpose, any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property, or the transmission of any message or communication.

(3) Any violation of any of the above provisions shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars, nor less than two hundred dollars. No person, and no agent or officer of any corporation within the purview of this section shall be privileged from testifying in relation to anything therein prohibited; and no person having so testified shall be liable to any prosecution or punishment for any offense concerning which he was required to give his testimony or produce any documentary evidence.

(4) The term "free pass" shall include any form of ticket or mileage entitling the holder to travel over any part of the line or lines of any railroad issued to the holder as a gift or in consideration or partial consideration of any service performed or to be performed by such holder, except where such ticket or mileage is used by such holder in the performance of his duties as an employe of the railroad issuing the same. But nothing in this section shall be construed as prohibiting policemen or firemen from accepting free transportation when on duty in uniform.

(5) Notaries public and regular employes of a railroad or other public utilities who are candidates for or hold public offices for which the annual compensation is not more than three hundred dollars to whom no passes or privileges are extended beyond those which are extended to other regular employes of such corporations are excepted from the provisions of this section. [1937 c. 23]

348.312 Unlawful for carriers and utilities to employ municipal attorneys or judicial officers. (1) It shall be unlawful for any district attorney or assistant district attorney, city attorney or assistant city attorney or any person holding a judicial office to be retained or employed by any common carrier operating within this state or for any public utility corporation, except a municipality.

(2) If any district attorney or assistant district attorney, city attorney or assistant city attorney or any person holding a judicial office shall violate any provisions of this section his office shall be deemed vacant.

(3) The provisions of this section shall not apply to court commissioners, nor to county judges, except such county judges as may also be judges of municipal courts.

348.313 Franks and privileges to public servants, political committees and candidates. (1) No public utility as defined in section 196.01 or any agent or officer thereof shall offer or give for any purpose to any political committee or any member or employe thereof, to any candidate for or incumbent of, any office or position under the constitution or laws or under any ordinance of any municipality of this state, or to any person at the request, or for the advantage of any of them, any frank or any privilege withheld from

any person for any product or service produced, transmitted, delivered, furnished or rendered, or to be produced, transmitted, delivered, furnished or rendered by any public utility, or any free product or service whatsoever.

(2) No political committee and no member or employe thereof, no candidate for and no incumbent of any office or position under the constitution or laws or under any ordinance of any town or municipality of this state, shall ask for or accept or use in any manner or for any purpose any frank or privilege withheld from any person, for any product or service produced, transmitted, delivered, furnished or rendered, or to be produced, transmitted, delivered, furnished or rendered by any public utility.

(3) Violation of any of the provisions of this section shall be punished by imprisonment in the state prison not more than five years nor less than one year or by fine not exceeding one thousand dollars nor less than two hundred dollars.

348.32 Refusal to deliver money, etc., to successor. Any public officer whatever, in this state, who shall, at the expiration of his term of office, refuse or wilfully neglect to deliver, on demand, to his successor in office, after such successor shall have been duly qualified and be entitled to said office according to law, all moneys, records, books, papers or other property belonging to said office and in his hands or under his control by virtue thereof, shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

348.325 Barratry. (1) Common barratry is the practice of soliciting, maintaining or exciting judicial proceedings or other actions at law or equity.

(2) Any person guilty of common barratry as defined in subsection (1) shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding five hundred dollars.

348.33 False certificates. Any public officer whatever, in this state, whose duty it shall be by law to make any official certificate in respect to any matter or thing, who shall state in such certificate, in respect to anything material, that which he knows to be false or that which he has not good reason to believe is true, shall be punished by imprisonment in the county jail not more than six months or by fine not exceeding one hundred dollars.

Note: A superintendent of a state school who certified twenty-two monthly pay rolls to the board of control carrying a salary for a teacher that he knew was not then in the state's employ violated this section. *United States F. & G. Co. v. Hooper*, 219 W 373, 263 NW 184.

348.34 Same as to scalps of animals. Any county clerk or conservation warden who shall knowingly make any untrue or false certificate in respect to the killing of wolves, lynxes or wild cats, and any person who shall obtain or endeavor to obtain any such certificate from such clerk or conservation warden by false or fraudulent misrepresentations or practices, and any person who shall obtain or endeavor to obtain a reward as provided in section 29.60 for the killing of any animal that has been raised, reared, harbored or held in captivity by anyone shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars. [1935 c. 205]

348.35 [Repealed by 1943 c. 503 s. 71]

348.351 Vagrancy. All persons of the classes enumerated in this section, except dependent, neglected, or delinquent children as defined in section 48.01 shall be deemed vagrants, namely: All idle persons who, not having visible means to maintain themselves, live without employment; all persons wandering abroad and lodging in groceries, beer-houses, outhouses, market places, sheds or barns or in the open air, all common drunkards; all lewd, wanton, lascivious persons in speech or behavior; all persons wandering abroad or begging or who go about from door to door or place themselves in the streets, highways, passages or other public places to beg or receive alms, or fortune tellers and other like impostors or gamblers, and persons having no visible occupation and unable to give a satisfactory account of themselves, and every female who shall be found wandering about the streets and addressing male persons for the purpose of soliciting the commission of any lewd, indecent or unlawful act, or for the purpose of enticing any male person into a house of prostitution, bed house, room or other place for any unlawful purpose, or any female inmate of any bawdyhouse, or house of prostitution, or assignation house or brothel, or any common prostitute who shall be found wandering about the streets or loitering in or about any restaurant, lodging house, saloon or place where intoxicating liquors are sold; and shall be punished by imprisonment at hard labor in the county jail not exceeding ninety days or by solitary confinement therein not less than three days nor more than ten days.

Note: Defendant could be convicted of vagrancy as a "common drunkard," though he was intoxicated only in his own home, and not in a public place. *Pollon v. State*, 218 W 466, 261 NW 224.

348.352 Acts of vagrancy. Any vagrant or tramp who shall wantonly or maliciously, in any manner, put in fear any inhabitant of this state, or kindle any fire on any highway or on the land of another, without the consent of the owner or occupant of such

land, or enter any house, barn or outbuilding belonging to any other person, with intent to commit some unlawful act, or carry any dangerous weapon, or be found drunk and disorderly, or commit any offense against the laws of this state, for which no greater punishment is herein provided, shall be punished by imprisonment in the county jail at hard labor not more than three months, or by imprisonment therein in solitary confinement not less than three days nor more than ten days. Any punishment by imprisonment alone shall be deemed a lesser punishment than imprisonment at hard labor or in solitary confinement.

348.353 Assembly of vagrants; fees. If two or more tramps shall assemble or congregate together for the purpose of encouraging vagabondage or for any other unlawful purpose they shall be punished as provided in section 348.351 and shall be tried together; and if they are convicted the court which tried them and the officer who committed them to jail shall only be entitled to such fees as they would have been entitled to if but one person had been tried and committed for such offense.

348.354 Labor, vagrants to perform; what not to have. It shall be the duty of the sheriff or keeper of any jail to which any person convicted of being a vagrant or tramp is sentenced to imprisonment at hard labor therein to keep such person engaged in doing such work as the county board has directed, and if no direction has been given, then to keep him at work upon the highways or other public improvements, and such sheriff or keeper may appoint or detail any deputy or other police officer to guard such person and keep him at work. Any person so sentenced to hard labor who wantonly or wilfully refuses to work shall be punished by such sheriff or jailer by solitary confinement in the county jail to which he was committed for not more than ten days for each offense; provided, that such punishment shall not extend beyond the time for which he was sentenced. No such sheriff or keeper shall permit any person sentenced to imprisonment as a tramp or vagrant to have or possess any tobacco, newspaper, cards or any other article of amusement or entertainment, or permit such person to be kept or fed otherwise than as stated in the commitment, by virtue of which he was received into such jail, during the time he is confined there. Any person violating any provision of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars.

348.355 Fraud as to officers' fees. Any officer who shall make or cause to be made any complaint against any person whom he shall have reason to believe is guilty of any offense against the provisions of these statutes concerning tramps or vagrants, whereby a lesser offense is charged against any such person, shall be punished by fine of not less than fifty dollars nor more than one hundred dollars. Any officer or magistrate who shall conspire with any other officer or person for the purpose of increasing the emoluments of his office, or for any other unlawful purpose, or to evade the provisions of law concerning the arrest, trial and conviction of persons who are charged with being tramps or vagrants, or who shall, with such intent, in any manner or by any means encourage any tramp to remain or come within his jurisdiction, shall be punished by fine of not less than three hundred dollars nor more than five hundred dollars, and be ineligible for re-election or reappointment for five years from the rendition of such judgment.

348.36 Telegraph; divulging message; preference in sending, etc. Any officer or other person connected with, or in the business or management of, any telegraph company doing business in this state who shall divulge or communicate any telegraph message or dispatch or the substance or any part thereof, except to the person entitled to receive the same, or who shall give unlawful preference in the sending, transmitting or receiving of telegraph messages or dispatches, or shall wilfully fail or neglect to give preference to dispatches or messages in the order of time in which applications are received shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

348.361 Divulging message or forging receipt. Any person connected with a telegraph or messenger company, incorporated or unincorporated, operating a line of telegraph or engaged in the business of receiving and delivering messages in this state, in any capacity, who wilfully divulges the contents, or the nature of the contents of a private communication intrusted to him for transmission or delivery, or who wilfully refuses or neglects to transmit or deliver the same, or who wilfully forges the name of the intended receiver to a receipt for any such message or communication or article of value intrusted to him by said company, shall be imprisoned in the county jail, not exceeding one year, or to be fined not to exceed five hundred dollars, in the discretion of the court.

348.362 Companies to post copy of act. All telegraph or messenger companies whose employes are affected by section 348.361 are hereby required to post, in their offices in this state, a copy of section 348.361, under a penalty of ten dollars and costs for each and every offense.

348.37 Fraudulent knowledge of dispatch; injury to wires; interference. Any person who shall, by any device or means whatever, procure or attempt to procure from any

officer or other person connected with or in the business or management of any telegraph company transacting business within this state, any knowledge of the contents or substance of any telegraph message or dispatch not addressed to himself or to which he is not entitled, or who shall, without lawful authority, tamper or interfere with, use or in any manner intentionally, carelessly or negligently disturb or interrupt any telegraph wires or lines of any such telegraph company, or who shall intentionally, carelessly or negligently fell any tree or timber so as to break, destroy or injure any such telegraph wires, without first giving twenty-four hours' notice of his intention to do so to some agent of the company at its nearest office or to some agent of a railroad company at its nearest office, in case such wires are constructed along any railroad, or who shall, without the consent of such company, send or attempt to send any message or dispatch over said wire or lines, in any manner whatever, or shall intercept, interrupt or disturb any dispatch passing upon any such wires or lines, or who shall wilfully or maliciously interfere with, obstruct, prevent or delay, by any means or contrivance whatsoever, the sending, transmission or receiving of any wireless telegraph message, communication or report by any wireless telegraph company doing business in this state, or who shall aid, agree with, employ or conspire with any person or persons to unlawfully interfere with, obstruct, prevent or delay the sending, transmission or receiving of any such wireless telegraph message, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding one thousand dollars.

348.38 Injury to wires by removal of building, etc. Any person having the right so to do who shall wilfully remove or change any building or other structure or any timber standing or fallen, to which any telegraph, telephone, electric railway, electric light or electric power lines or wires are in any manner attached, or cause the same to be done, which shall destroy, disturb or injure the wires, poles or other property of any telegraph, telephone, electric railway, electric light or electric power company transacting business in this state, without first giving to such company, at its office nearest to such place of injury, at least twenty-four hours' previous notice thereof, shall be punished by imprisonment in the county jail not more than thirty days or by fine not exceeding fifty dollars. And any person who shall unlawfully break down, interrupt or remove any telegraph, telephone, electric railway, electric light or electric power line or wire or destroy, disturb, interfere with or injure the wires, poles or other property of any telegraph, telephone, electric railway, electric light or electric power company in this state shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding one hundred dollars.

Note: Person who connects private tele- be prosecuted for interfering with telephone phone line with line of public utility may lines. 20 Atty. Gen. 126.

348.381 False impersonation of deputy conservation warden. Any person who shall falsely represent himself to be a deputy conservation warden or who shall assume to act as such without having been first duly appointed as such, shall be punished by imprisonment in the county jail not more than six months or by a fine not to exceed one hundred dollars.

348.382 Changing license. Any person who shall change or alter, in any manner, a license or deer tag for the pursuit, hunting or killing of game shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than six months nor exceeding one year.

348.383 Fraud in obtaining license. Any person who shall make to any county clerk authorized to issue licenses for the pursuit, hunting or killing of game a false statement concerning his citizenship or residence, and thereby obtain such a license therefor as only citizens or residents of this state are entitled to, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than four months nor more than one year, or in the state prison not exceeding one year.

Note: This section does not apply where issuing the license. Penalty in 29.63 (1) (f) false statement is not made to county clerk does not apply. 29 Atty. Gen. 54.
or his deputy but to some other person

348.384 Breaking seals of conservation commission. Any person who shall break, remove or interfere with any seal or tag attached to any animal, carcass, article or other thing by the state conservation commission, or who shall meddle or interfere with any animal, carcass, article or other thing with such seal or tag attached, or who shall counterfeit any such seal or tag, attached or unattached, shall be punished by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment in the county jail not less than nine months nor more than one year, or by both such fine and imprisonment.

348.385 [*Repealed by 1939 c. 23*]

348.386 Criminal trespass. (1) Any person who shall enter into any growing or standing grain not his own, with firearms or permit his dog to enter into any such grain, without the permission of the owner or occupant of the land on which such grain is situate or any person who shall, without permission of the owner, hunt or shoot on the premises of another inclosed by a fence and used as a pasture for stock, or shall hunt or shoot upon any other land of another after being notified not to hunt or shoot thereon, shall be punished by a fine of not less than \$5 nor more than \$10 and in default of payment thereof, shall be imprisoned in the county jail not less than 10 days nor more than 30 days; provided, that this section shall not limit or any way affect civil liability on account of such trespass. Any owner or occupant of land may give the notice provided for in this section by maintaining signboards, at least one foot square, containing such notice and bearing at the foot the name of the person giving the notice followed by the word "owner" or "occupant", as the case may be, upon at least every 40 acres of the premises sought to be protected, in at least 2 conspicuous places, or by giving personal, written or verbal notice.

(1a) Any person other than the owner or occupant of such land who shall without first having obtained the express authority of such owner or occupant, post or maintain on any land a signboard like or of purport similar to the one described in subsection (1) shall be punished by a fine of not less than \$5 nor more than \$100 and in default of payment thereof shall be imprisoned in the county jail not less than 10 days nor more than 30 days.

(2) Any person who shall enter upon the inclosed or cultivated lands of another, or woodlots connected therewith, for the purpose of hunting, fishing, trapping, netting, gathering fruit, nuts, straw, turf, vegetables or herbs, without the consent of the owner or occupant thereof, shall be punished by a fine of not less than five dollars nor more than one hundred dollars and in default of payment thereof shall be imprisoned in the county jail not less than ten days nor more than thirty days.

(3) No person shall cut for sale in its natural condition and untrimmed, with or without roots, any evergreen or coniferous tree, branch, bough, bush, sapling or shrub, from the lands of another without the written consent of the owner, whether such land be publicly or privately owned. Such written consent shall contain the legal description of the land where such tree, branch, bough, bush, sapling or shrub was cut, as well as the name of the legal owner thereof; and such written consent or a copy thereof certified as a true copy by the person to whom such consent was given or by the register of deeds of the county in which the land is situated shall be carried by every person in charge of the cutting or removing any such trees, branches, boughs, bushes, saplings or shrubs, and shall be exhibited to any officer of the law, forest ranger, forest patrolman, conservation warden, or other officer of the department of conservation at his request at any time. Any such officer shall have power to inspect any such trees, branches, boughs, bushes, saplings or shrubs when being transported in any vehicle or other means of conveyance or by common carrier, and to make such investigation with reference thereto as may be necessary to determine whether or not the provisions of this subsection have been complied with; and to stop any vehicle or means of conveyance found carrying any trees, branches, boughs, bushes, saplings or shrubs upon any public highway of this state, for the purpose of making such inspection and investigation, and to seize and hold, subject to the order of the court, any such trees, bushes, saplings or shrubs found being cut, removed or transported in violation of this subsection. No person shall ship or transport any such trees, branches, boughs, bushes, saplings or shrubs outside the county where the same were cut unless he shall first have obtained from the conservation commission a license as a Christmas tree dealer. The annual fee for such license shall be five dollars. Such dealer shall not purchase or receive any Christmas trees from any one until such vendor shall have given the dealer either a statement in writing that the trees were cut from his own lands or has filed with such dealer written consents from the owners of the lands from which such trees were cut. Such statements and consents shall be kept by the dealer for not less than six months and shall be open to inspection by the conservation commission and its deputies at all reasonable hours. In making a shipment of Christmas trees, by railroad or truck, such dealer shall attach to the outside of each package, box, bale or truckload or earload so shipped, a tag or label on which shall appear his name and address and the number of his license. No common carrier, truck hauler, or agent thereof, shall receive for shipment or transportation any such trees, branches, boughs, bushes, saplings or shrubs unless such tag or label shall be attached thereto. Any person who violates any of the provisions of this subsection shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than ten days nor more than three months, or by both such fine and imprisonment. Every written consent for any purpose specified in this subsection and every certified copy of such consent shall be deemed to be a written instrument, and any person who shall sign any such written consent or certified copy who is not

authorized to do so, and any person who shall lend or transfer or offer to lend or transfer any such written consent or certified copy thereof to another person who is not entitled to use the same, and any person not entitled to use any such written consent or certified copy thereof, or who shall borrow, receive or solicit from another any such written consent or certified copy thereof shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than three months nor more than six months, or by both such fine and imprisonment. The provisions of this subsection, other than the requirement that no person shall cut or remove trees, branches, boughs, bushes or shrubs from the lands of another without his written consent, shall in no way modify or nullify the provisions of subsection (2) of section 94.59 relating to the inspection and sale of nursery stock. [1931 c. 404; 1935 c. 550 s. 414; 1943 c. 297]

Note: Subsection (3) prohibits under certain circumstances and licenses cutting of Christmas trees for sale, but does not prohibit cutting and shipment as gifts other than in commercial quantities; but department of conservation is authorized to inspect all shipments to detect violations of law. 20 Atty. Gen. 1106.

348.387 Taking frogs on lands of another. It shall be unlawful for any person to take, catch, kill or have in his possession any frogs or parts of frogs taken from lands owned by another without the consent of the owner of said lands, and any person violating the provisions of this section shall be punished by a fine of not less than twenty-five dollars, nor more than fifty dollars, or by imprisonment in the county jail not less than fifteen days, nor more than sixty days.

348.388 Entry upon hatchery to kill fish. Any person who shall enter upon the grounds of any state fish hatchery for the purpose of unlawfully killing or taking any fish therefrom shall be punished by a fine of not less than one hundred dollars nor more than two hundred dollars, or by imprisonment not less than thirty days nor more than sixty days.

348.389 Killing fish in hatchery. Any person who shall unlawfully and without proper authority kill, take or catch any fish from any waters or grounds belonging to or connected with any state fish hatchery shall be punished as provided in section 343.17.

348.39 Injuring property of hatchery. Any person who shall injure any fish, or in any manner interfere harmfully with the ponds, streams, troughs or other property of the state fish hatchery, without lawful authority so to do, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars; but this section shall in no wise change or affect any liability for arson or other burnings, nor burglary or other breakings, nor larceny of any property.

348.391 Summary arrest. The person in charge of any fish hatchery is hereby empowered and required summarily and without process to arrest any person, who has violated the provisions of sections 348.388, 348.389 or 348.39, found upon the grounds of any state fish hatchery, and to deliver such person forthwith to some proper officer for prosecution.

348.40 Common-law conspiracy. Any person guilty of a criminal conspiracy at common law shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars; but no agreement, except to commit a felony upon the person of another or to commit arson or burglary, shall be deemed a conspiracy or be punished as such unless some act, beside such agreement, be done to effect the object thereof by one or more of the parties to such agreement.

Note: An indictment charging conspiracy maintaining gambling devices was merely to maintain gambling devices sufficiently statutory. State v. Martin, 229 W 644, 282 charged common-law conspiracy notwithstanding that the offense of setting up and NW 107. See note to 149.06, citing 30 Atty. Gen. 95.

348.401 Antitrust laws, violations. Any person or persons who, individually or as an officer, director or agent of any corporation, shall violate or advise, abet or aid in a violation of any provision of section 133.01 or section 133.21, shall be punished by imprisonment in the state prison not to exceed five years, or by imprisonment in the county jail not to exceed one year, or by fine not exceeding five thousand dollars, or by both such imprisonment and fine.

348.402 Confidence games. Every person who shall obtain, or attempt to obtain, from any other person or persons, any money or property, by means or by use of any false or bogus checks, or by any other means, instrument or device, commonly called the confidence game, shall be punished, if the money or property so obtained, or attempted to be obtained, shall be of the value of \$500 or over, by imprisonment in the state prison not less than one year nor more than 10 years, and if the money or property so obtained, or attempted to be obtained, shall have a value of less than \$500, by imprisonment in the county jail not more than one year or by fine not exceeding \$500. [1941 c. 302]

348.403 Pleading. In every complaint, indictment or information under section 348.402, it shall be deemed and held a sufficient description of the offense, to charge that the accused did, on etc., unlawfully and feloniously obtain, or attempt to obtain (as the case may be), from A B (here insert the name of the person defrauded or attempted to be defrauded), his money (or property, in case it be not money), by means and by use of the confidence game.

348.41 Criminal libel and slander. (1) Any person guilty of libel shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred and fifty dollars.

(2) Every person who, in the presence and hearing of another, other than the person slandered, whether he be present or not, shall maliciously speak of or concerning any person, any false or defamatory words or language which shall injure or impair the reputation of such person for virtue or chastity or which shall expose him to hatred, contempt, or ridicule shall be guilty of a misdemeanor for which said person shall be punished as heretofore provided in subsection (1). Every slander herein mentioned shall be deemed malicious if no justification therefor be shown and shall be justified when the language charged as slanderous, false, or defamatory was true and was spoken with good motives and for justifiable ends.

(3) No conviction shall be had under the provisions of subsection (2) upon the testimony of the person slandered unsupported by other evidence, but must be proved by the evidence of at least two persons other than such person who heard and understood the language charged as slanderous or by admission of the defendant.

Note: "Justification" as used in the first clause of the closing sentence of (2) carries the idea of, and is synonymous with, "reasonable excuse," and is not as final and definite a term as "justified" as used in the last clause thereof; "justification" for the use of the words may exist without establishing their truth if they were used upon a lawful occasion upon probable cause and from good motives. Where slanderous words have been used they are deemed malicious and a prima facie case has been made; but when the evidence shows or tends to show that the words were spoken with good motives and for justifiable ends, actual malice must be established. *State v. Mueller*, 208 W 543, 243 NW 478.

Writing and introducing a resolution by a member of a city council, and causing it to be read by the city clerk in proceedings of the council, falsely charging that a circuit judge decided a case favorably to the city in return for appointment of his son to the position of assistant district attorney, charged the judge with an act having direct tendency to injure him in reputation, degrade and disgrace him in society, and bring him into public distrust, scorn, contempt and hatred; and the malicious pub-

lication thereof constitutes libel. In a prosecution for criminal libel under the statute, where the information charged libel and slander in several counts, refusal of the trial court to order it made more definite and certain by limiting it to one specific charge of libel, or to require the district attorney to elect on which count he would proceed, was not prejudicial. *Branigan v. State*, 209 W 249, 244 NW 767.

In law of libel, as contrasted with that of slander or oral defamation, comments or epithets of an abusive character tending to bring person at whom they are directed into contempt, hatred, or ridicule are defamatory per se. Whether use of words "racketeer" and "Chicago gangster" in radio broadcast respecting officer of co-operative milk pool levying tribute upon farmers was libelous per se held to present question for jury. *Singler v. Journal Co.*, 218 W 263, 260 NW 431.

Two witnesses other than one slandered must hear language used at identically same time. Date of admission by defendant may be alleged as date of crime and proof may be made that slanderous words were uttered on date prior to date of admission. 25 Atty. Gen. 305.

348.411 Slandering commercial or financial standing. Any person who shall willfully and maliciously make, circulate or transmit to another or others, any false statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank, savings bank, banking institution, building and loan association or trust company doing business in this state, or co-operative association organized under chapter 185, or any domestic mutual insurance company, including town mutuals, lawfully entitled to transact in this state the business of writing fire or casualty or workmen's compensation insurance, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be punished by a fine of not more than \$1,000 or by imprisonment for a term of not more than one year, or both. [1931 c. 18, 459; 1943 c. 553 s. 40]

348.412 Press not to print name of rape victim. Any person who shall publish or cause to be published in any newspaper, magazine, periodical or circular, except as the same may be necessary in the institution or prosecution of any civil or criminal court proceeding, or in the compilation of the records pertaining thereto, the identity of a female who may have been raped or subjected to any similar criminal assault, shall be punished by imprisonment in the county jail for not more than one year or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

348.42 Removal of rock from lakes and rivers. Any person who shall dig, remove or carry away any rock, stone, sand, gravel, clay or other substance from the natural bed of Lake Michigan, Green Bay, Lake Superior, the Mississippi river, or other navigable

waters within the jurisdiction of this state, not being a riparian owner upon the same at such place, without the consent of the supervisors of the town, the common council of the city or the trustees of the village within whose boundaries the place is situated, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment in the discretion of the court.

348.421 Throwing mill waste in waters. Any person who shall carry, throw into or in any manner deposit in any lake or bay within this state connected with the great chain of lakes and navigable for vessels or steamers, or cause so to be carried, thrown or deposited therein any sawdust, shavings, edgings or other mill waste shall be punished for the first offense by fine not exceeding ten dollars; and for any subsequent offense committed within one year from conviction by fine not exceeding twenty dollars, or imprisonment in the county jail not more than one month nor less than ten days. Nothing in this section shall prevent the use of any material mentioned therein in the erected or repair of any pier, piling ground or dock lawfully established in any of the waters of this state.

348.422 Obstruction of rivers, etc. Any person who shall materially obstruct the navigation of any river or stream in this state, used for the purpose of driving and floating saw logs thereon, by banking or browng logs therein in such manner as to unnecessarily endanger or delay the passage of logs owned by other parties higher up on such river or stream shall be punished by fine of not more than two hundred dollars nor less than one hundred dollars, and be liable for all damages sustained by any other person by reason of delay caused by such obstruction in driving and floating logs from points higher up on such river or stream.

348.423 Throwing debris into rivers. Any person who shall knowingly throw or permit to fall into the Wisconsin river or any tributary thereof, except Pine river in Richland county and the Kickapoo river, any slabs, ground slabs or other ground timber, shingle sawdust or shingle shavings or any clippings, edging, spalts or other refuse arising from the manufacture of lumber, except sawdust and planing-mill shavings, shall be punished by fine of not more than fifty dollars nor less than ten dollars for the first offense, nor more than one hundred dollars nor less than twenty-five dollars for each subsequent offense, and shall be liable to any person injured thereby for any special damage sustained by reason thereof, and costs of the action to recover the same.

348.424 Safety regulations for boats. Any person, firm, or corporation found guilty of violating any of the provisions of section 30.06 shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than five nor more than twenty-five dollars for the first offense, and by a fine of not less than ten nor more than twenty-five dollars for each succeeding offense.

348.425 Malicious waste of natural resources. (1) It is hereby made unlawful for any person, firm or corporation, unreasonably to waste or maliciously to injure, destroy or impair any natural resource within this state.

(2) It is the purpose of this section to promote and secure the conservation of the natural resources within the state in the interests of the public welfare.

(3) Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than fifty dollars, and for a second offense may be punished by a fine of not more than two hundred dollars.

348.426 Waste on lands sold for taxes, penalty. Any person who shall wilfully, maliciously or wantonly injure, destroy or commit waste upon any lands, tenements, or anything appertaining thereto which have been sold for the nonpayment of taxes while such taxes remain unpaid or in cases where the tax certificate is the property of the county shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not more than ninety days or by both such fine and imprisonment. [1931 c. 463]

Note: This section requires proof that waste has been committed either wilfully or maliciously or wantonly. 24 Atty. Gen. 814.

348.427 Storage of junked automobiles. (1) No person, firm, partnership or corporation shall accumulate or store any junked automobiles or parts thereof outside of any building on any real estate located within the corporate limits of any city or village except upon a permit issued by the common council or village board.

(2) No accumulation or storage of such material shall be allowed within two thousand feet outside of the corporate limits of a city or village or within seven hundred and fifty feet of the center line of any state trunk or federal highway, except upon a permit issued by permission of the town board.

(3) The permit issued by city council, village or town board shall be signed either by the mayor or president or chairman as the case may be and clerk thereof and shall specify the quantity and manner of storing such junk. Such permit shall be revocable at any time by such council or board after a hearing at which it has been found that the permit holder has failed or refused to comply with the ordinances or restrictions providing regulations for the storage of such junked automobiles or parts thereof. Such hearing may be held by the common council of any city or the board of any town or village upon its own motion, or upon the complaint in writing, duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with such ordinance or regulation. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than ten days previous to the date of hearing.

(4) Any person, firm, partnership or corporation now engaged in the business of accumulating or storing and leaving accumulated or stored junked automobiles, or parts thereof, outside of any building on real estate within the corporate limits of any city or village, or within two thousand feet outside the corporate limits of a city or village, or within seven hundred fifty feet of the center line of any state trunk or federal highway in any town on the effective date of this section may, at any time within six months after such effective date, upon application therefor to the governing body of such town, city or village upon showing such facts, be granted a permit for such place of accumulation or storage; any person, firm, partnership or corporation succeeding a business now engaged in the accumulating or storage and leaving accumulated and stored junked automobiles, or parts thereof, outside of any building on real estate as hereinbefore provided may likewise be granted such permit.

(5) Any person, firm, partnership or corporation violating any of the provisions hereof shall upon conviction be fined not less than ten dollars, nor more than fifty dollars for each offense, and in default of payment of said fine shall be imprisoned in the county jail for a period not exceeding thirty days. Each day that junk, as herein defined, shall be stored contrary to the provisions hereof shall constitute a separate and distinct offense. [1939 c. 354]

348.43 Entry on fairgrounds. Any person who shall wilfully and without right enter any agricultural or industrial fairgrounds which are duly inclosed by a fence not less than six feet high, during any fair or exhibition, by climbing over or passing through or under such fence, or by using the ticket or badge of some other person or in any other way shall be punished by fine not exceeding fifty dollars.

348.44 Disturbing school. Any person who shall wilfully, maliciously or wantonly interrupt or in any way molest or disturb any private or public school while in session shall be punished by imprisonment in the county jail not more than thirty days or by fine not exceeding fifty dollars.

Note: School is not in session until it has been called to order and work has begun. 23 Atty. Gen. 679.

348.45 [Renumbered section 129.15 by 1935 c. 550 s. 386]

348.46 Removal of paupers. Any person who shall send, transport, remove or bring or cause the same to be done, any pauper from any town, knowing him to be such pauper, into any other town, knowingly and without lawful authority and there leave such pauper, or shall entice or induce such pauper so to remove with intent to make him a charge upon such town shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding two hundred dollars.

348.47 Minors not to play billiards, etc. Any owner or keeper of any billiard table, pool table, pigeonhole table or bowling alley kept for gain, or any agent or servant of such owner or keeper in charge thereof who shall allow or in any manner permit any person under the age of eighteen years except with the written consent of the parent or guardian to play any game thereon, shall be punished by imprisonment in the county jail not more than ten days or by fine not exceeding twenty-five dollars.

348.471 Keeping or leasing place to smoke opium. Any person who opens or maintains, to be resorted to by other persons, any place where opium or any of its preparations is sold or given away to be smoked at such place, and any person who, at such place, sells or gives away any opium or any of its preparations to be there smoked or otherwise used and any person who visits or resorts to any such place for the purpose of smoking opium or any of its preparations, and any person who shall knowingly lease or let to another any house or other building, or any room therein, for the purpose of use as a place in which opium or any of its preparations are to be smoked or otherwise used, and any person who shall knowingly lease his premises or any part thereof to be used for such purpose shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.

348.472 Use of unauthorized persons as officers. Any person who, for himself or as agent or officer of any firm, joint-stock company or corporation, shall use or employ or aid

or assist in employing any body of armed men to act as militiamen, policemen or peace officers for the protection of persons or property or for the suppression of strikes, whether such armed men be employees of detective agencies, so called, or otherwise, they not being authorized by the laws of this state to act in such capacity, shall be punished by fine not exceeding one thousand dollars or by imprisonment in the state prison not less than one year nor more than three years, or by both such fine and imprisonment.

348.473 Acting as agent of fraternal order. Any person who shall act or aid in any manner in transacting, in this state, the business of or with any fraternal or beneficiary corporation, society, order or association for the relief of members or beneficiaries and furnishing life or casualty insurance upon the indemnity plan, in placing risks or effecting insurance therein, collecting duties or assessments therefor, or in any other manner, after the license of any such corporation, society, order or association has been revoked and while it is without authority to do business in this state, or while an injunction prohibiting any such organization from doing business in this state is in force, shall be punished by a fine not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment.

348.474 Same subject. Any person who shall, in any manner, solicit, advise, aid or procure or aid in soliciting, advising, assisting or procuring any person to become a member of any assessment plan, corporation, society, order or association conducted for mortuary, endowment, sick, accident or permanent disability benefit or any other kind or plan of assessment insurance, which corporation, society, order or association is not authorized to transact business in this state, or who shall accept, collect, receive or be instrumental in the collection or transmission of any admission fees, assessments, dues or payments of any kind whatever on account of any such insurance or benefit certificate in any such corporation, society, order or association shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail not less than sixty days nor more than one year, or by both such fine and imprisonment.

348.475 Fraud in obtaining membership. Any person who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership or in or with reference to any documentary or other proof for the purpose of obtaining membership in or benefit from any such corporation, society, order or association as is mentioned in section 348.473, for himself or any other person, shall be fined in a sum not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the county jail not less than three months nor more than one year, or both; and any certificate of membership or policy so secured shall be absolutely void.

348.476 Agent of building and loan association. Any person who shall act as the agent for any unauthorized building and loan association in this state, or sell or dispose of any shares, certificates, bonds or other evidences of indebtedness of or for any such unauthorized association, not licensed to transact business in this state, and any person who shall act for any such unauthorized association or in any manner aid in the transaction of the business of such association in this state shall be guilty of a misdemeanor and be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, and shall be personally liable for any sum or sums received by him for or on behalf of such unauthorized association.

348.477 Junk dealers; minors. (1) No dealers in secondhand articles or keeper of a junk store shall purchase any goods, article or thing whatsoever, except old rags and waste paper, from any minor under eighteen years of age, without written consent of parent or guardian.

(2) Any person or persons violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not more than six months, nor less than thirty days, or by fine not exceeding one hundred dollars, nor less than one dollar, or by both such fine and imprisonment in the discretion of the court.

348.478 Pawns by minors prohibited. (1) It shall be unlawful for any pawn or loan broker or any person who loans money and receives or accepts as security therefor any personal property, to demand, receive or accept from any minor any personal property whatsoever as security for money loaned without the written consent of the parent or guardian of said minor.

(2) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars nor less than five dollars or by imprisonment in the county jail not to exceed six months nor less than thirty days, or by both such fine and imprisonment.

348.479 Improper use of state or United States flag or other symbol of authority. No person shall, in any manner, for exhibition or display:

(1) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this state, or authorized by any law of the United States or of this state; or

(2) Expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed any such word, figure, mark, picture, design, drawing or advertisement; or

(3) Expose to public view for sale, manufacture, or otherwise, or to sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign, or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance.

Note: Proposed trade-mark submitted for registration, simulating national shield in form and design, although not in color, and with word "American" superimposed upon it, would violate this section. 20 Atty. Gen. 379.

Use of emblem containing picture of an American flag in background, in connection with Citizenship Day, does not violate this section. 28 Atty. Gen. 598.

348.48 Same; mutilation; disrespect. No person shall publicly mutilate, deface, defile, defy, trample upon, or by word or act cast contempt upon any such flag, standard, color, ensign or shield.

348.481 Same; exceptions. Sections 348.482 and 348.483 shall not apply to any act permitted by the statutes of the United States or of this state, or by the United States army and navy regulations, nor shall it apply to any printed or written document or production, stationery, ornament, picture or jewelry whereon shall be depicted said flag, standard, color, ensign or shield with no design or words thereon and disconnected with any advertisement.

348.482 Same; definitions. The words flag, standard, color, ensign or shield, as used in sections 348.479 to 348.481 shall include any flag, standard, color, ensign or shield, or copy, picture or representation thereof, made of any substance or represented or produced thereon, and of any size, evidently purporting to be such flag, standard, color, ensign or shield of the United States or of this state, or a copy, picture or representation thereof.

348.483 Same; penalty. (1) Any person violating the provisions of section 348.479 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars.

(2) Any person violating the provisions of section 348.48 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail not more than sixty days or by both such fine and imprisonment in the discretion of the court.

348.484 Same; interpretation. Sections 348.479 to 348.484 shall be so construed as to effectuate its general purpose and to make uniform the laws of the states which enact them.

348.485 Display of red flag. (1) It shall be unlawful for any person to display or exhibit at any meeting, gathering, or parade, public or private, the red flag or any other flag, banner or emblem, symbolizing or intended by the person or persons displaying or exhibiting the same, to symbolize a purpose to overthrow, by force or violence, or by physical injury to personal property, the government of the United States, or of the state of Wisconsin, or all government. Provided, that nothing in this section shall be construed as authorizing any of the things prohibited in sections 348.479 to 348.484.

(2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than ten dollars nor more than one hundred dollars with cost of prosecution and, in default thereof, by imprisonment in the county jail not to exceed thirty days.

348.486 Bribery of agent, etc. Whoever corruptly gives, offers or promises to an agent, employe or servant, any gift or gratuity whatever, with intent to influence his action in relation to his principal's, employer's or master's business; or an agent, employe or servant who corruptly requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner in relation to his principal's, employer's or master's business; or an agent, employe or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, re-

ceives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employe or servant such commission, discount or bonus, shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

348.487 Bonus to chauffeurs for purchases, forbidden. It shall be unlawful for any chauffeur, driver or other person having the care of a motor vehicle for the owner to receive or take directly or indirectly without the written consent of such owner any bonus, discount or other consideration for supplies, or parts furnished or purchased for such motor vehicle or upon any work or labor done thereon by others or on the purchase of any motor vehicle for his employer and no person furnishing such supplies or parts, work or labor or selling any motor vehicle shall give or offer any such chauffeur or other person having the care of a motor vehicle for the owner thereof, directly or indirectly without such owner's written consent, any bonus, discount or other consideration thereon. Any person violating this section shall be guilty of a misdemeanor and punished by a fine not exceeding twenty-five dollars.

348.488 Penalty for unauthorized insurance. Any unauthorized insurance company or other unauthorized insurer which shall hereafter take or receive any application for insurance in this state, or shall receive or collect a premium on any part thereof for such insurance, shall be punished by a fine of not more than five thousand dollars. Any officer, agent, solicitor or broker, or other employe of any unauthorized insurance company or other unauthorized insurer who shall take or receive any application for insurance in this state, or shall receive or collect a premium or any part thereof for such insurance, shall be guilty of a felony, and shall be punished by a fine of not more than five hundred dollars, or imprisonment in the state penitentiary for one year, or by both such fine and imprisonment.

348.49 Detectives, settlement with employes. Any employer and any person employed to detect dishonesty on the part of employes, or fiduciary agents, on a commission basis or under a contract calling for a percentage of the amount recovered through or by reason of the detective work done by such person, shall submit the facts of the case and the settlement made with such employe or fiduciary agent to the circuit judge of the county wherein the dishonest act was committed, for approval or further proceedings, and the employe shall be notified of such hearing and shall have a right to be heard. Any such person or employer who shall not so submit the facts and settlement as made to such circuit judge for approval or further proceedings, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than three months nor more than one year. [1931 c. 165]

348.50 Contractors' failure to comply with municipal wage scale. (1) It shall be the duty of every city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any other governmental unit, which proposes the making of a contract for any project of public works, to determine the rate of wage scale which shall be paid by the contractor to the employes upon such project. Such rate of wage scale shall be published in the notice issued for the purpose of securing bids for such project. Whenever any contract for a project of public works is entered into, the rate of wage scale shall be incorporated in and made a part of such contract. All employes working upon the project shall be paid by the contractor in accordance with the rate of wage scale incorporated in the contract. Such rate of wage scale shall not be altered during the time that such contract is in force.

(2) Whenever any city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, shall by ordinance, resolution, rule or by-law, establish a rate of wage scale to be paid to employes upon any project of public works by a contractor, be he individual, copartnership, or corporation, and it shall be found upon due proof that such contractor is not paying or has failed to pay the wage scale thus established, or is directly or indirectly, by a system of rebates or otherwise, violating the provisions of such ordinance, rule, resolution or by-law of such city, village, township, county, school board, school district, sewer district, drainage district, commission, public or quasi-public corporation or any governmental unit, such contractor shall be deemed guilty of a misdemeanor and shall be punished therefor by imprisonment in the county jail for a period of not more than one year nor less than thirty days or by a fine of not to exceed five hundred dollars for each offense or both.

(3) The failure to pay the required wage to an employe for any one week or part thereof shall be deemed a separate offense. [1933 c. 95]

348.51 [Renumbered sections 93.07, 100.02, 100.26 (2) by 1935 c. 550 s. 8, 334, 335, 365, 391]

348.52 Substances giving off noxious odors. Whoever shall have in his possession, disseminate, distribute or deposit with intent to cause bodily discomfort, panic or damage to property, in any place of public assembly or in any entrance, lobby, foyer, passageway, rest room, office, anteroom, or other room in connection with such place of public assembly, any liquid, powder, or other substance which is capable of producing an annoying, offensive, nauseating, or foul odor, or causing a panic or damage to property, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars, or be imprisoned in the county jail for not to exceed six months, or be punished by both such fine and imprisonment. The provisions of this section shall not apply to police officers acting in the line of their duty, nor shall it apply to substances kept solely for the purpose of repelling robbers, thieves, marauders, or other law violators. [1933 c. 295]

348.53 Contracts restricting days for exhibiting motion picture films; penalty. (1) As used in this section the following words and terms shall be construed as follows:

(a) "Person" shall include any natural person, partnership, copartnership, firm, unincorporated association or corporation doing business within this state.

(b) "Public exhibition" shall mean any exhibition, performance or display which the public may see, view or attend for an admission price, fee or other valuable consideration.

(2) It shall be unlawful for any person to enter into a contract, directly or indirectly, to sell, rent, lease, license, lend, distribute or barter a motion picture film for public exhibition within this state upon the condition imposed by the seller, vendor, renter, lessor, licenser or distributor that such public exhibition thereof shall begin, occur or take place on a certain or specified day or days of the week.

(3) (a) Any person who violates any provision of this section shall, upon conviction thereof, be fined not less than twenty-five dollars nor more than three hundred dollars for the first offense, and shall be fined not less than three hundred dollars nor more than five hundred dollars for each separate subsequent offense.

(b) A domestic, or foreign corporation or foreign association exercising any of the powers, franchises or functions of a corporation in this state, violating any provision of this section, shall not have the right of, and shall be prohibited from doing business in this state, and the secretary of state shall revoke its certificate to do business in this state.

(4) When, upon complaint or otherwise, the attorney-general or district attorney has good reason to believe that any provision of this section has been violated, he shall commence and prosecute the necessary actions in the supreme court, or in the circuit court of the county in which the defendant resides, for enforcement of this section. Such actions may include quo warranto, injunction or any other proceedings. [1935 c. 307]

348.54 Sale of certain merchandise by employers to employes prohibited; penalty.

(1) No person, firm or corporation engaged in any enterprise in this state shall by any method or procedure directly or indirectly by itself or through a subsidiary agency owned or controlled in whole or in part by such person, firm or corporation, sell or procure for sale or have in its possession or under its control for sale to its employes or any person any article, material, product or merchandise of whatsoever nature not of his or its own production or not handled in his or its regular course of trade, excepting meals, candy bars, cigarettes, tobacco and excepting tools used by employes in said enterprise and such specialized appliances and paraphernalia as may be required in said enterprise for the employes' safety or health and articles used by employes or other persons which insure better sanitary conditions and quality in the manufacture of food or food products. The provisions of this subsection shall not apply to lumber producers, loggers and dealers nor to any co-operative association organized under chapter 185.

(2) Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than one hundred dollars nor more than five hundred dollars and for a second or subsequent offense by a fine of not less than five hundred dollars nor more than one thousand dollars. Each act prohibited by this section shall constitute a separate violation and offense hereunder. [1939 c. 129, 490]

Note: Gasoline and lubricating oil used "fuel" within the meaning of this section. in the operation of motor vehicles is not 23 Atty. Gen. 543.

348.55 Ticket scalping; penalty. (1) Every ticket or other evidence of the right of entry to any amusement, game, contest, exhibition or performance given by or under the auspices of the university of Wisconsin shall be considered a revocable license to the person to whom such ticket may be issued and shall be transferable only on such terms and conditions as the board of regents of the university may prescribe.

(2) No such ticket or other evidence of the right of entry may be sold for more than the price printed upon the face of the ticket; and any person reselling or buying any such ticket for more than said price shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than ten dollars nor more than one hundred dollars or by imprisonment in the county jail for not more than sixty days. [1939 c. 174]

348.56 Sale to employes prohibited. (1) No department or agency of the state or any political subdivision thereof, or member or officer of any village, town or county board or common council of any city, or any purchasing agent or purchasing agency of the state or any political subdivision thereof, shall sell or procure for sale or have in its possession or under its control for sale to any employes of the state or any political subdivision thereof any article, material, product or merchandise of whatsoever nature, excepting meals, public services and such specialized appliances and paraphernalia as may be required for the safety or health of the employes.

(2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the county jail not less than thirty days nor more than ninety days, or both.

(3) The provisions of this section shall not apply to this state, nor to any political subdivision thereof, nor to any department, agency, officer or employe of any of them while engaged in any recreational, health, welfare, relief, safety, or educational activities furnished by this state or any political subdivision thereof. [1939 c. 357, 487, 500]

Note: This section does not prohibit counties from disposing of salvage materials to employes, nor does it prohibit the use of county road equipment for private individuals or other municipalities, nor the performance for others of work in the county machine shop. County may not sell gas, oil or gravel to its employes. 28 Atty. Gen. 615.

Various activities of highway commission analyzed as to whether sale of certain articles or rendering of certain services to public employes would constitute violation of this section. 28 Atty. Gen. 713.