CHAPTER 98.

WEIGHTS AND MEASURES.

98.01 Public standards. The weights and measures and the scales and beams, received from the United States under a resolution of congress, approved June 14, 1836, and such new weights and measures and scales and beams in addition thereto or in renewal thereof, and such as shall be made under the direction of the state department of agriculture in conformity therewith, and certified to by the national bureau of standards shall be the state standards.

98.02 Standards; supervision; tests. (1) Custody of standards; comparison of city standards. The state department of agriculture shall take charge of the standards adopted by section 98.01 as the standards of the state; cause them to be kept in a fire-proof building belonging to the state, from which they shall not be removed except for repairs or for certification; and take all other necessary precautions for their safekeeping. The department shall maintain the state standards in good order and shall submit them once in ten years to the national bureau of standards for certification. The department shall keep a complete record of the standards and such new weights and measures and scales and beams in addition thereto or in renewal thereof, and shall seal the same when tried and proved to be in conformity to the state standards.

98.03 Report. The department shall keep a complete record of the standards and such new weights and measures and scales and beams in addition thereto or in renewal thereof, and shall seal the same when tried and proved to be in conformity to the state standards.

98.04 Police powers of sealers. The department, or its inspectors by its direction, shall at least once in each 2 years visit the various cities of the state in order to inspect the work of the local sealers; and in the performance of such duties, it or its inspectors by its direction may inspect the weights, measures, balances, or any weight or measuring appliance of any person, firm, or corporation and shall have the same powers as the local sealer of weights and measures. The department shall issue
from time to time, regulations for the guidance of all sealers, and the said regulations shall govern the procedure to be followed by the aforesaid officers in the discharge of their duties. In said regulations it shall prescribe the amount of tolerance to be allowed, and may make reasonable regulations regarding the varieties or kinds of devices, attachments or parts entering into the construction or installation of weights and measures or weighing or measuring appliances which shall be, for the object the tendency to secure correct results in the use of such appliances. The regulations of the federal bureau of standards shall be applicable in Wisconsin except as so modified by department regulation.

(3) Test measures, packages and containers. In all territory within this state, except in cities subject to the provisions of section 98.04, the department shall have the power, except as otherwise provided in sections 126.20, 126.21 and 126.25, and in sections 196.16 and 196.17 of the statutes, to inspect, test, try and ascertain if they are correct, all weights, measures of weighing or measuring devices kept, offered or exposed for sale, or sold, and it shall be its duty to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or measurements used or employed within said territory by any proprietor, agent, lessee or employee in determining the size, quantity, extent, area or measurement of quantities, things, produce, or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire, or award. The department shall have the power to, and shall from time to time by its agents, inspectors, or sealers, weigh or measure, inspect packages or amounts of commodities of whatever kind, kept for the purpose of sale, or exposed for sale, sold, or in the process of delivery, in order to determine whether the same contains the amounts represented and whether they are offered for sale or sold in the manner in accordance with law.

History: 1953 c. 46.

98.04 City standards. Each city appointing a sealer under section 98.04 shall procure and shall keep at all times a complete set of weights and measures, scales, and beams in exact conformity to the state standards, except that they may be made of such materials as the department may direct; weights and measures, scales, and beams having been tried and accurately proved by it shall be sealed and certified by the department, and shall be deposited with the city sealer as public standards. Whenever such city shall neglect for six months to do, the city clerk, on notification and request by the department, shall provide such standards and cause the same to be so tried, proved, sealed, certified, and deposited at the expense of the city.

98.04 City sealers. (1) There shall be a city sealer of weights and measures in all cities having a population of more than 5,000 inhabitants according to the last official United States census, without counting inmates of any state penal institution or insane hospital therein situated. Any city under 5,000 inhabitants may adopt the same by a majority vote of the members of the common council. Such action may be repealed by a like vote of the common council. The city sealer shall be appointed by the mayor from a list to be furnished by the state or local civil service board under the rules of said board, except that in cities of the fourth class he shall be appointed as determined by the city council. He shall be paid a salary to be fixed by the board or body authorized to fix the salaries of city officials, and shall be provided with suitable office quarters in said city, and no fees shall be charged by him or by the city for inspection or testing of weights, measures or weighing or measuring devices.

(2) Except as otherwise provided in sections 126.20, 126.21 and 126.25, and in sections 196.16 and 196.17, the city sealer shall within his city have the power to inspect, test, try, and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments, or mechanical devices for measurement, and tools, appliances, or accessories connected with any or all such instruments or measurements, used or employed within the city by any proprietor, agent, lessee or employee in determining the size, quantity, extent, area, or measurement of quantities, things, produce, or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire, or award. The city sealer shall have the power to and shall from time to time weigh or measure or inspect packages or amounts of commodities of whatever kind kept for the purpose of sale, offered or exposed for sale, sold or in the process of delivery, in order to determine whether the same contain the amounts represented, and whether they be offered for sale or sold in a manner in accordance with law.

(3) He shall, at least once in each year or as much oftener as he may deem necessary, see that all weights, measures, and weighing and measuring apparatus used in the city are

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98.04
correct and that the same are in compliance with the regulations issued by the department. He may for the purpose above mentioned, and in the general performance of his official duties, with or without formal warrant, enter or go in or upon any stand, place, building, or premises; or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any dealer whatsoever, for the purpose of making the proper tests.

(4) Whenever the city sealer finds a violation of the statutes relating to weights and measures, he shall cause the violator to be prosecuted. Whenever the sealer compares weights and measures and finds that they correspond or cause them to correspond with the standards in his possession, and with the regulations issued by the department, he shall seal or mark the same with appropriate devices to be approved by the department. The sealer shall condemn and seize and may destroy incorrect weights and measures and weighing or measuring instruments which cannot be repaired; and such as are incorrect, and yet may be repaired, he shall mark or tag as "condemned for repairs" in a manner prescribed by the department.

(5) The city sealer shall keep a complete record of the work done by him and shall make a quarterly report to the mayor, which report shall be filed with the city clerk, and a quarterly report duly sworn to, to the department, these quarterly reports to cover the three-month periods beginning July first, October first, January first, and April first, respectively, and to be submitted not later than twenty days following the expiration of the period covered by the report.

(6) The city sealer of weights and measures shall forthwith on his appointment execute and file an official bond, with sureties approved by the appointing power.

(7) Nothing contained in sections 98.01 to 98.16, inclusive, shall be construed as prohibiting cities subject to the provision of this section from enforcing ordinances regulating weights and measures, herebefore or hereafter enacted not in conflict with said sections or the regulations of the department issued in pursuance thereof; nor as prohibiting cities from employing city sealers of weights and measures to perform other public services not inconsistent with their duties as sealers of weights and measures, with or without extra compensation, as determined and fixed by the city; provided, that where such services are rendered to another city department, the cost of such services be charged to the city department receiving same.

(8) CITY AND VILLAGE SEALERS. The word "city" as used in ss. 98.02 to 98.08 shall be construed to include villages.

History: 1903 c. 48.

98.05 Appropriation. The salaries and expenses of city sealers shall be paid from the city treasuries, respectively.

98.06 Sealers in state at large. In all territory not within cities subject to the provisions of section 98.04 the inspectors of weights and measures appointed or designated by the department shall act as sealers of weights and measures, with like authority and duties as prescribed for city sealers in section 98.04.

98.07 Sealer's liability. If any sealer of weights and measures shall neglect to perform any duty imposed by law or shall prove and seal any weight, measure, scale or beam by any public standard which shall not have been tried, proved and sealed as prescribed by this chapter he shall forfeit for each such offense $10.

98.08 Police powers of sealers. (1) There is hereby conferred upon the department, its inspectors, and all sealers of weights and measures, police power; such inspector and sealers shall be provided by the department with suitable badges or insignia of authority and in the exercise of their functions shall exhibit the same, upon demand, to any person questioning their powers, and they are hereby empowered and authorized to make arrests, with or without formal warrant, of any person or persons violating the provisions of any statute relating to weights and measures.

98.09 Weight and ton defined. When any commodity shall be sold by weight it shall be understood to mean the net weight, and all contracts concerning goods or commodities sold by weight shall be construed accordingly unless such contract would be manifestly inconsistent with the special agreement of the parties contracting. When any commodity is sold by the ton it shall be understood to mean the net weight of twenty hundred avoirdupois pounds unless such construction would be manifestly inconsistent with the special agreement of the parties contracting.

98.10 Dry commodity standards. (1) Whenever any of the articles or commodities mentioned in this section shall be sold by the bushel, or fractional part thereof, and no special agreement as to the weight thereof shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight, and shall be computed as follows:
(2) Sixty pounds for a bushel of wheat, peas, potatoes, clover seed, beans, alfalfa, or asparagus.
(4) Fifty-six pounds for a bushel of Indian corn, rye, lima beans, wrinkled peas, flaxseed, rutabagas, or tomatoes.
(6) Fifty-four pounds for a bushel of sweet potatoes.
(10) Forty-five pounds for a bushel of clover seed.
(15) Forty-six pounds for a bushel of cranberries.
(19) Thirty-two pounds for a bushel of oats or onion sets.
(23) Seventy pounds for a bushel of coarse salt.
(25) Eighty pounds for a bushel of plastering hair.
(26) And two thousand two hundred pounds for a cord of hemlock bark.
(28) All dry commodities not otherwise specified in this section shall be bought and sold only by standard dry measure, standard weight, or numerical count except where parties otherwise agree in writing.

98.11 Standard bushel. The bushel in struck measure shall contain two thousand one hundred fifty and forty-two hundredths cubic inches. The half bushel and the parts thereof shall correspond in capacity to that of the bushel and shall be the standard measure for fruits, vegetables, and other dry commodities customarily sold by heaped measure; and in measuring such commodities, the half bushel or other smaller measure shall be heaped as high as may be without special effort or design.

98.12 Standard milk bottles. For the sale of milk, cream and other fluid milk products at retail no bottle or container shall be used unless its capacity is one-half pint, one pint, one-third quart, one quart, one-half gallon, or one gallon.

98.13 Babcock test; samples; paying check. (1) In the use of the Babcock test all persons shall use only the standard Babcock test glassware, which complies with the following specifications, to wit:
(a) Milk pipettes shall have a capacity of 17.6 cubic centimeters.
(b) Milk test bottles shall have a calibrated neck with a capacity equivalent to 0.2 cubic centimeter for each one per cent marked thereon; and after January 1, 1948, only bottles with a total per cent graduation of 8 shall be used.
(c) Cream test bottles shall receive a charge of either 9 grams or 18 grams. The 9 gram bottle shall only be used with a 9 gram charge and the 18 gram bottle shall only be used with an 18 gram charge. The calibrated neck of the 9 gram bottle shall have a capacity equivalent to 0.1 cubic centimeter for each one per cent marked thereon and the calibrated neck of the 18 gram bottle shall have a capacity equivalent to 0.2 cubic centimeter for each one per cent marked thereon.
(d) This section shall not be construed to prohibit the use of the Mojonnier or other extraction test methods.
(e) No other basis of milk fat measure where milk or cream is purchased by or sold to dairy plants when the value of said milk or cream is determined by per cent of milk fat content or by the Babcock test shall be used.
(2) In sampling cream or milk from which composite tests are to be made to deter-
such license shall be required of a duly licensed cheesemaker
settlement for such milk or cream, or for the purpose of official inspection, or for the
section relating thereto.
complied with and they shall report immediately to the department violations found.
licensed by the department as herein provided.
which they have jurisdiction in order to ascertain whether the above provisions are being
butter test bottles or milk pipettes marked as in this section provided, but they shall from
centigrade.
the true cubic centimeter or the weight of one gram of distilled water at four degrees
in this section shall comply. The unit of graduation for all Babcock glassware shall be
the same shall be determined by its proportion of butter fat, the price to be paid shall be
based on a three and five-tenths per cent butter fat standard.
Every cheesemaker, creamery operator and condensed operator or any other
person or firm laying cream or milk based on butter fat content shall provide two sets of
composite sample bottles, and shall retain tested samples in good condition, for five days
after testing, to enable the patron owning such sample to have a retest made by an expe-
rienced and competent tester of the state department of agriculture. Such retest shall be
used as the basis on which pay checks shall be computed. Upon request of any such patron
or cheesemaker, or both, it shall be the duty of such department to furnish such tester to
make such retest. Where separate tests are made daily of each patron's milk or cream,
the unused portion of the original samples of any particular day's milk or cream shall be
retained in good condition for retesting whenever five per cent or more of the patrons
furnishing milk or cream to such firm or person so request.

98.14 Licensing of milk and cream testers. (1) To secure fair and accurate t.ests
to producers and manufacturers for the determination of the basis of payment or for
settlement for such milk or cream, or for the purpose of official inspection, or for the
making of records of dairy production, persons making such milk fat tests shall be
licensed by the department as herein provided.
(2) No person shall engage as a tester of milk or cream to determine its value for
production, persons making such milk fat tests shall

98.14 Standardization of Babcock pipettes. (1) All bottles and pipettes used in
measuring milk or milk products for making determination of the per cent of fat in said
milk or milk products shall have clearly blown or otherwise permanently marked in the
side of the bottle or pipette the word “Sealed,” and in the side of the pipette or the side
or bottom of the bottle the name, initials, or trade-mark of the manufacturer and his des-
ignating number, which designating number shall be different for each manufacturer and
may be used in identifying bottles. The designating number shall be furnished by the
department upon application by the manufacturer and upon the filing by the manufac-
turer of a bond in the sum of one thousand dollars with sureties to be approved by the
attorney-general, conditioned upon confOl'mance with

98.145 Licensing of milk and cream testers. (1) To secure fair and accurate tests
to producers and manufacturers for the determination of the basis of payment or for
settlement for such milk or cream, or for the purpose of official inspection, or for the
making of records of dairy production, persons making such milk fat tests shall be
licensed by the department as herein provided.
(2) No person shall engage as a tester of milk or cream to determine its value for
payment or for the purpose of official inspection or for records of dairy production for
the purposes described above unless he holds a license issued by the department; but no
such license shall be required of a duly licensed cheesemaker or buttermaker. Such license
shall be renewed annually. Each application for milk tester license or renewal thereof shall be accompanied by a fee of $2. Each application shall be made upon forms provided by the department.

(3) To qualify for a milk and cream tester's license the applicant shall furnish satisfactory evidence of good moral character as certified by 2 responsible references who have known the applicant for at least one year and shall give proof of ability to perform the necessary duties to the satisfaction of the department by satisfactorily passing a written examination pertaining to milk and cream sampling and care of samples and use of the Babcock test or such other test method as may be approved by the department; and by actual demonstration in the laboratory of his ability to determine accurately the milk fat content of milk and cream including special emphasis on the handling and testing of composite samples of milk and cream.

(4) Unless provision is made for the testing of milk or cream by a duly licensed tester as provided herein, no dairy plant shall receive any milk or cream unless at least one employee is a milk and cream tester licensee who shall be responsible for the care of samples and the testing of milk and cream and who shall be regularly assigned to the duty of making such tests.

(5) This section shall not be construed to require the licensing of city or village sanitary or dairy inspectors.

History: 1915 c. 581.
Constitutionality discussed and administration considered. 42 Atty. Gen. 231.

98.16 To underread or overread unlawful. It shall be unlawful for any person, by himself, his servant or agent or as the servant or agent of another to falsely manipulate or underread or overread or make any false determinations by the Babcock test or any other contrivance used for determining the quality or value of milk or cream delivered to a creamery, cheese factory, or condensed milk factory, or when sold or purchased.

98.16 Standard barrels, crates and boxes. (1) A barrel for liquids shall contain thirty-one and one-half gallons, and a hogshead two barrels.

(2) A barrel for beer, ale, porter or other similar fermented liquors shall contain thirty-one gallons, each gallon to contain two hundred thirty-one cubic inches; a half barrel, fifteen and one-half gallons; a quarter barrel, seven and three-fourths gallons; an eighth barrel, three and seven-eighths gallons. The capacities of the barrel and its subdivisions enumerated above shall apply to all containers in which beer, ale, porter or other similar fermented liquors are commonly sold, known as barrels, kegs, casks, or any other container made of staves, hoops and flatheads. Reasonable tolerances shall be prescribed by the department for the containers above designated.

(3) (a) A barrel of wheat flour, rye flour, buckwheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, hominy and hominy grits measured by weight shall contain 200 pounds.

(b) All sales of any of the commodities mentioned in paragraph (a) in containers of less than one barrel shall be in containers of not avoidable weights of 5 pounds, 10 pounds, 25 pounds, 50 pounds and 100 pounds.

(4) A barrel for potatoes or other vegetables shall be the same as the standard barrel for apples or pears or other fruit as provided in subsection (6) of this section.

(5) A barrel of unslaked lime shall contain two hundred pounds.

(6) The standard barrel for apples or pears or other fruit, unless otherwise specifically defined, shall have an interior capacity of seven thousand and fifty-six cubic inches, and shall not be less than twenty-six inches between the heads inside; the diameter of the heads shall be seventeen and one-eighth inches, including the beveled edge; the outside bilge or circumference shall be not less than sixty-four inches, the thickness of the staves being four-tenths of an inch; provided, however, that any barrel of a different form, but of the same interior capacity of seven thousand and fifty-six cubic inches, shall be a legal barrel.

(7) The standard barrel for cranberries shall measure not less than twenty-five and one-quarter inches between the heads inside; the diameter of the heads shall be sixteen and one-quarter inches, including the beveled edge; the outside bilge, or circumference, shall measure not less than fifty-eight and one-half inches, the thickness of the staves being four-tenths of an inch. But any barrel or different form, but of the same interior capacity shall be considered a legal barrel.

(8) A standard crate, box or basket for apples, pears, plums, peaches, and other fruits not secondarily contained in quart or other boxes within such crate, box or basket, shall have an interior capacity of two thousand one hundred fifty cubic inches exclusive of cover.
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(9) A bushel crate of cranberries or blueberries shall have an interior capacity of one bushel dry measure.

(10) All sales of blackberries, blueberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries in quantities of less than one bushel shall be made by the quart, pint, or half-pint, dry measure, and all berry boxes or baskets sold, used, or offered for sale within the state shall be of the interior capacity of not less than one quart, pint, or half-pint, dry measure. In addition to the penalty prescribed in section 98.26, the illegal boxes and baskets and the fruit contained may be confiscated in case of violation of the provisions of this subsection.

(11) All sales of fresh fruits or vegetables in containers of less than one bushel dry capacity measure shall be made in containers of the standard capacity of one quart, two quarts, three quarts, four quarts, five quarts, six quarts, eight quarts, sixteen quarts or twenty-four quarts standard dry measure, and each receptacle shall be filled so as to contain the full capacity of such fresh fruits or vegetables, or if other than standard containers such receptacles for fresh fruits or vegetables shall be plainly and conspicuously marked to indicate the true net weight, measure or numerical count of such fruits or vegetables.

(13) All contracts for the sale of apples, pears, cranberries, or other fruits, potatoes or other vegetables, by the barrel or crate, unless it is otherwise expressly stipulated in writing, shall be construed to mean barrels or crates of the capacity prescribed in subsections (4), (6), (7), (8) and (9) of this section.

(14) Nothing in this section shall be construed as preventing the sale and shipment into other states of barrels, crates, berry boxes, or baskets of other capacities than those herein specified, nor as prohibiting the use of barrels, crates, berry boxes, or baskets of other capacities than those herein specified for the sale and shipment therein of any of the commodities named or designated in this section.

98.18 **Grain tester, how used.** No person shall determine the weight or measure per bushel of any grain which is brought or received in store at any mill, elevator, warehouse or storehouse by the use of any grain tester that is not sealed in accordance with the provisions of this section and thereby cheat or defraud the seller or buyer of any grain.

98.19 **Grain tester, how used.** No person shall determine the grade of any grain which is brought or received in store at any mill, elevator, warehouse or storehouse by the use of any grain tester that is not sealed in accordance with the provisions of this section and thereby cheat or defraud the seller or buyer of any grain.

98.20 **Cotton duck or canvas; weight and quality; branding.** (1) That for the purposes of this section cotton duck or canvas shall be deemed to include all cotton duck or canvas, whether single filling, double filling, roll or wide duck.

(2) That for the purposes of this section, the equivalent of thirty-six inches in length by twenty-nine inches in width shall constitute a yard, and an ounce shall be one-sixteenth part of a pound avoirdupois. Any person who shall violate the provisions of this section or who shall sell, buy or offer to sell or who may offer to expose for sale any cotton duck or canvas, or any article other than clothing and wearing apparel composed or made in whole or in part of cotton duck or canvas, shall be punished as is provided in section 98.26 (1).

**History:** c. 1853 s. 233.
filler or other preparation placed in or on said cotton duck or canvas since its manufacture.

(4) It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell or endeavor to sell any cotton duck or canvas as herein defined, or any articles other than clothing and wearing apparel, composed or made in whole or in part of any cotton duck or canvas without having marked thereon the true and correct weight of said canvas or cotton duck by ounces per yard, together with a description by name of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of said canvas or cotton duck by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on said cotton duck or canvas since its manufacture.

(5) It shall be unlawful for any person or corporation either individually or in representative capacity, selling, carrying for sale or endeavoring to sell any savings, paulines, wagon covers, tents, grain and hay covers, stable or tent tops to misstate, misrepresent, or conceal the true and correct size and dimensions thereof.

(6) It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by this section or cause, or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of this section.

98.21 Bread, standard loaves. (1) All bread manufactured, procured, made or kept for sale, offered or exposed for sale, or sold, in the form of loaves for use or consumption within this state, shall be one of the following weights and no other, namely, one pound, one and one-half pounds, or multiples of one pound avoirdupois weight, provided, however, that a variation or tolerance of one and one-fourth ounces in excess or one and one-fourth ounces in deficiency per pound from the weights provided for in this section be allowed in the weight of individual loaves of bread; and the weight of individual loaves of bread shall be held to be the average of at least ten loaves of the same approximate weight and same manufacturer, if that number is available at the time of weighing in any place where bread is manufactured, procured, made or kept for sale, offered or exposed for sale, or sold. If ten loaves are not available, then the weight of individual loaves shall be held to be the average of all available loaves of the same approximate weight and same manufacturer, at the time of weighing in any place where bread in loaves is manufactured, procured, made or kept for sale, offered or exposed for sale, or sold, but in no case shall said number be less than five.

(2) The provisions of this section shall not apply to rolls, buns, biscuits, crackers and similar articles weighing less than four ounces avoirdupois each, nor to stale bread, provided that such bread be conspicuously marked "stale bread" or placed in a container conspicuously marked "stale bread," and said as such for stale bread.

(3) No person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another person, firm or corporation, shall manufacture, procure, make or keep for sale, offer or expose for sale, or sell, bread in the form of loaves of weights other than provided for in subsection (1) of this section and in excess of the tolerances provided for therein.

(4) No person, firm or corporation, either individually or in representative capacity, selling, carrying for sale or endeavoring to sell any bread, shall be unlawful to sell or offer to sell in the form of loaves of weights other than provided for in subsection (1) of this section and in excess of the tolerances provided for therein.

98.22 Inspection of fuel deliveries. It shall be unlawful to sell or offer to sell in this state any coal, charcoal, or coke in any other manner than by weight. No person, firm, or corporation shall deliver any coal, charcoal, or coke without each such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tonnage of the delivery vehicle, and the quantity, or quantities of coal, charcoal, or coke, contained in the cart, wagon, or other vehicle used in such deliveries, with the name of the purchaser thereof, and the name of the dealer from whom purchased. Any person, firm, or corporation desiring to retain the original shall be delivered to said purchaser of said coal, or his agent or representative, at the time of the delivery of the fuel; and the other ticket shall be retained by the seller of the fuel. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered over to the purchaser must be given to the purchaser at the time the sale is made.

98.23 Cheese purchased at wholesale to be weighed before delivery. Every person, firm or corporation that purchases or engages in the business of purchasing cheese in quantities of fifty pounds or more, in this state shall, in all cases except where otherwise
agreed by express contract, correctly weigh or cause to be correctly weighed, each and every box or package thereof, at or before the time that such cheese shall be delivered to the purchaser, or to any common carrier for the purchaser for shipment, and every such person, firm or corporation shall make payment for all such cheese purchased, according to the weight so ascertained, and at the price or amount thereof agreed upon with the owner or vendor of such cheese at the time of such delivery, except for such cheese as shall be found to be of inferior quality by a test thereof made at or before the time of such delivery.

98.34 Sale of growing crops; weighing; quality. Any person, firm or corporation transacting business in this state, that shall enter into any contract for the purchase of any crop that is not ready for immediate delivery, shall in all cases weigh, or cause to be weighed, the crop so purchased, at or before the time such crop is delivered to the purchaser, or to a common carrier at the direction of the purchaser for shipment, and every such person, firm or corporation shall make payment in full for all of the crop so purchased according to the weight so ascertained and at the price or amount specified in the contract, without regard to the quality or condition of such crop or portions thereof at the time of delivery, unless any inferior quality or unsound condition of such crop shall be due to the negligence or wilful act of the vendor, subsequent to such purchase, and in case the vendor shall fail or refuse to comply with his contract as provided in this section, the vendor, in any action prosecuted by him to recover for any crop sold to such purchaser, shall recover as damages for such failure or refusal, double the contract price of such crop at the weight thereof when ready for delivery and offered to or accepted by the purchaser.

98.35 False weights and measures. (1) Any person, who by himself or his agent or servant, or as the agent or servant of another, shall use in the buying or selling of any commodity or thing, or for hire or reward, or retain in his possession, any false weight or measure or weighing device; or who shall sell or offer for sale, or have in his possession for the purpose of selling, any false weight or measure or weighing or measuring device, or any device or instrument to be used or calculated to falsify any weight or measure; or who shall use or retain in his possession, except as expressly provided by statute, any weight or measure or weighing or measuring device which has not been sealed by a sealer of weights and measures within one year; or who shall sell, or offer or expose for sale, or keep for the purpose of sale any commodity in a manner contrary to law; or who shall violate any provisions of sections 98.01 to 98.24, for which a specific penalty has not been prescribed; shall be punished as in section 98.26 (1).

(2) Any person who wilfully, with intent to cheat or defraud the buyer or seller of electric current, gas, water or steam, shall make or cause to be made or aid in the making of any electric conductor, gas pipe, water pipe, steam pipe, or other instrument or contrivance, or any connection as to conduct or supply or intended to conduct or supply electric current, gas, water or steam to any lamp or motor or machine or burner or orifice or appliance from which such electricity, gas, water or steam may be consumed or utilized, without passing through or being registered by a meter; or any person who shall wilfully use a false meter for the measurement of electric current, gas, water or steam in the buying or selling of the same; or who shall wilfully obstruct or interfere with the working of any meter used for such purposes, so as to cause or be intended to cause a false registration of the amount of electric current, water, gas, or steam consumed with the intent to cheat or defraud the seller or buyer of such electric current, gas, water or steam, shall be punished by imprisonment in the county jail not more than one year or by a fine not exceeding $500; but in case the amount of damages occasioned by such cheat or fraud shall not exceed $20, he shall be punished as in section 98.26 (1); and in computing the amount of damages occasioned, the value of such electric current, water, gas or steam shall be the regular current price thereof, charged to the consumer by the seller thereof.

(3) Sections 98.01 to 98.24 do not prohibit the use, in good faith, of any unsealed weight or measure or weighing or measuring device acquired by any person after the sealer's last visit to him for the purpose of sealing his weights and measures, or inspecting any sealed weight or measure or weighing or measuring device in his possession after the expiration of one year next after the last inspection and sealing thereof, provided the person has notified the city sealer, in cities subject to the provisions of section 98.04, or, in all other cases, the department, in writing, signed by him, of the fact that he has such weight or measure or weighing or measuring device, giving the number and a general de-
scription thereof, and the place where it may be found, and has received a written
and signed acknowledgment of said notice from the city sealer or the department.

History: 1951 c. 223.

Cross Reference: For prohibitions relative to electricity, gas, water and steam, similar
to those in 93.25 (2), see 939.32 and 943.20.

98.26 Penalties. (1) Any person, who shall violate any of the provisions of
this chapter for which a specific penalty is not prescribed shall be fined not to exceed $200
or imprisoned in the county jail not to exceed 6 months or both.

(2) Whoever in any manner whatsoever impersonates or hinders the state department
of agriculture or any inspector or any sealer of weights and measures, in the performance
of their official duties shall be punished as in subsection (1).

History: 1951 c. 223.