

100.32 (2); 1961 c. 664 s. 12; Stats. 1961 s. 96.02.

**96.03 History:** 1957 c. 511; Stats. 1957 s. 100.32 (3); 1961 c. 664 ss. 13, 28; Stats. 1961 s. 96.03; 1969 c. 276 s. 583 (2).

**96.04 History:** 1957 c. 511; Stats. 1957 s. 100.32 (4); 1959 c. 33; 1961 c. 664 ss. 13, 28; Stats. 1961 s. 96.04; 1965 c. 252; 1969 c. 276 s. 583 (2); 1969 c. 287.

**96.05 History:** 1961 c. 664 s. 4; Stats. 1961 s. 96.05.

**96.06 History:** 1957 c. 511; Stats. 1957 s. 100.32 (6); 1961 c. 664 ss. 15, 28; Stats. 1961 s. 96.06; 1963 c. 6; 1969 c. 276 s. 583 (2).

**96.07 History:** 1961 c. 664 s. 5; Stats. 1961 s. 96.07; 1969 c. 276 s. 583 (2); 1969 c. 287.

**96.08 History:** 1957 c. 511; Stats. 1957 s. 100.32 (8); 1961 c. 664 s. 17; Stats. 1961 s. 96.08; 1969 c. 276 s. 583 (2).

**96.09 History:** 1957 c. 511; Stats. 1957 s. 100.32 (9); 1961 c. 664 s. 18; Stats. 1961 s. 96.09.

**96.10 History:** 1957 c. 511; Stats. 1957 s. 100.32 (10); 1961 c. 664 ss. 18, 28; Stats. 1961 s. 96.10; 1969 c. 276 s. 583 (2).

**96.11 History:** 1957 c. 511; Stats. 1957 s. 100.32 (11); 1961 c. 664 ss. 18, 28; Stats. 1961 s. 96.11; 1969 c. 276 s. 583 (2).

**96.12 History:** 1957 c. 511; Stats. 1957 s. 100.32 (12); 1961 c. 664 ss. 18, 28; Stats. 1961 s. 96.12; 1969 c. 276 s. 583 (2).

**96.13 History:** 1957 c. 511; Stats. 1957 s. 100.32 (13); 1961 c. 664 s. 19; Stats. 1961 s. 96.13.

**96.14 History:** 1957 c. 511; Stats. 1957 s. 100.32 (14); 1961 c. 664 ss. 6, 20, 21, 22, 28; Stats. 1961 s. 96.14; 1969 c. 276.

**96.15 History:** 1957 c. 511; Stats. 1957 s. 100.32 (15); 1961 c. 664 ss. 23, 28; Stats. 1961 s. 96.15; 1969 c. 276.

**96.16 History:** 1957 c. 511; Stats. 1957 s. 100.32 (16); 1959 c. 33; 1961 c. 664 ss. 23, 24; Stats. 1961 s. 96.16; 1969 c. 276 s. 583 (2).

**96.17 History:** 1957 c. 511; Stats. 1957 s. 100.32 (17); 1961 c. 664 s. 25; Stats. 1961 s. 96.17; 1969 c. 276 s. 583 (2).

**96.18 History:** 1957 c. 511; Stats. 1957 s. 100.32 (18); 1961 c. 664 ss. 25, 28; Stats. 1961 s. 96.18; 1969 c. 276 s. 583 (2).

**96.19 History:** 1957 c. 511; Stats. 1957 s. 100.32 (19); 1959 c. 19; 1961 c. 664 ss. 25, 28; Stats. 1961 s. 96.19; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 276 s. 583 (2).

**96.20 History:** 1957 c. 511; Stats. 1957 s. 100.32 (20); 1961 c. 664 ss. 25, 28; Stats. 1961 s. 96.20; 1969 c. 276 s. 583 (2).

**96.21 History:** 1957 c. 511; Stats. 1957 s. 100.32 (21); 1961 c. 664 ss. 26, 28; Stats. 1961 s. 96.21; 1969 c. 276.

**96.22 History:** 1957 c. 511; Stats. 1957 s. 100.32 (22); 1961 c. 664 ss. 26, 28; Stats. 1961 s. 96.22.

**96.23 History:** 1957 c. 511; Stats. 1957 s. 100.32 (23); 1961 c. 664 ss. 26, 28; Stats. 1961 s. 96.23.

## CHAPTER 97.

### Food Regulation.

On exercises of police power see notes to sec. 1, art. I; on legislative power generally and on delegation of power see notes to sec. 1, art. IV; and on municipal home rule see notes to sec. 3, art. XI.

Liability-without-fault criminal statutes—their relation to major developments in contemporary economic and social policy. Remington, Robinson and Zick, 1956 WLR 625.

**97.01 History:** 1969 c. 286; Stats. 1969 s. 97.01.

**Legislative Council Note, 1969:** This section replaces ss. 97.01 and 97.02. The definitions of s. 97.01 are retained, except for the definition of drug. The revised ch. 97 does not include references to drugs. Drugs are regulated by chs. 151 and 161.

The definitions of “butter”, “milk”, “nonfat dry milk” and “whey cream” are retained from s. 97.02. The several other definitions are new. The other extensive definitions of various agricultural products are not retained. These definitions are either found in a standard dictionary or are prescribed by federal or state regulation. [Bill 24-A]

**97.02 History:** 1969 c. 286; Stats. 1969 s. 97.02.

On exercises of police power see notes to sec. 1, art. I; on legislative power generally see notes to sec. 1, art. IV; and on jurisdiction of circuit courts see notes to sec. 8, art. VII, and notes to 252.03.

**97.03 History:** 1931 c. 113; Stats. 1931 s. 352.41 (2); 1935 c. 550 s. 245; Stats. 1935 s. 97.46 (2); 1953 c. 369; 1967 c. 128; 1969 c. 286 ss. 7, 34; Stats. 1969 s. 97.03.

**Legislative Council Note, 1969:** Sub. (1) establishes branding (labeling) requirements for foods which do not meet the standards of the federal act. [Bill 24-A]

Wrapped bread in the form of loaves, whether sliced or unsliced, must comply with 125.21, Stats. 1933, regulating the weight of loaves of bread sold; and bread sold in wrappers is not sold in “package” form, within the meaning of 352.08, relating to the false branding of food so sold. *M. Carpenter Baking Co. v. Dept. of Agriculture and Markets*, 217 W 196, 257 NW 606.

Cheese wrapped in parchment and tinfoil is not a package within the meaning of sec. 4601aa, Stats. 1913. 3 Atty. Gen. 915.

Sec. 4601aa, Stats. 1921, requires that the net contents be marked on the crate or container of quart or other boxes of berries. 10 Atty. Gen. 523.

A label which states that contents of a can are of consistency of cream is not, as a matter of law, in violation of sec. 4601aa. 10 Atty. Gen. 922.

A milk distributor may not lawfully market milk in bottles, filled by it, having thereon a statement that such bottles are filled by another distributor, whether distribution is made by it directly or through agencies, including such other distributor. Seals for milk bottles which do not contain any false or misleading statement or statement inconsistent with that in or on other parts of container may lawfully be used. 11 Atty. Gen. 288; 12 Atty. Gen. 55.

Misbranded potatoes intended for seed purposes are not food. 12 Atty. Gen. 187.

The sale of cold storage eggs in a carton labeled "Sta-fresh" is a violation of secs. 4601aa and 111.09, Stats. 1923. 13 Atty. Gen. 329.

**97.05 History:** 1955 c. 302; Stats. 1955 s. 97.60 (4); 1963 c. 380; 1969 c. 286 ss. 39, 39m; Stats. 1969 s. 97.05.

**97.07 History:** 1969 c. 286 s. 11; Stats. 1969 s. 97.07.

**Legislative Council Note, 1969:** This section establishes legislative intent that the misbranding provisions are directed to prevent misrepresentation and to protect the consumer and user of foods. [Bill 24-A]

**97.09 History:** 1969 c. 286 s. 12; Stats. 1969 s. 97.09.

**Legislative Council Note, 1969:** Sub. (1) makes federal food standards the food standards of Wisconsin. The department has authority to amend, stay, reject or establish other standards when it is in the interest of consumers to do so.

Subs. (2) and (3) authorize the department to grant temporary shipping or marketing permits for foods for which standards may not have been established. This would allow test marketing. [Bill 24-A]

**97.10 History:** 1969 c. 286 s. 14; Stats. 1969 s. 97.10.

**97.12 History:** 1947 c. 315; Stats. 1947 s. 97.34 (2), (3), (4); 1969 c. 286 ss. 17, 28; 1969 c. 392 s. 41; Stats. 1969 s. 97.12.

**97.13 History:** 1967 c. 342; Stats. 1967 s. 97.27 (3); 1969 c. 286 s. 23; Stats. 1969 s. 97.13.

**97.15 History:** 1969 c. 286 s. 18; Stats. 1969 s. 97.15.

**97.17 History:** 1915 c. 597; Stats. 1915 s. 1410b-1; 1921 c. 318; 1923 c. 152 s. 193; Stats. 1923 s. 98.05; 1935 c. 550 s. 198; Stats. 1935 s. 97.03; 1939 c. 183; 1943 c. 229, 401; 1963 c. 224; 1969 c. 286 s. 6; Stats. 1969 s. 97.17.

One engaged in the manufacture of whey butter is a buttermaker and must have a license. 9 Atty. Gen. 522.

A cheesemaker must be constantly present during the process of manufacturing cheese, and so-called helpers violate law if they make cheese in his absence. 14 Atty. Gen. 40.

**97.19 History:** 1939 c. 183; Stats. 1939 s. 97.035; 1943 c. 375 s. 24; 1943 c. 401 s. 18; 1943 c. 515 s. 4; 1955 c. 10; 1963 c. 224; 1969 c. 286 s. 6; Stats. 1969 s. 97.19.

**97.20 History:** 1939 c. 471; Stats. 1939 s. 97.04; 1941 c. 186; 1943 c. 229; 1943 c. 375 s. 25;

1943 c. 401 s. 19; 1943 c. 515 s. 5; 1951 c. 261 s. 10; 1951 c. 489; 1955 c. 10; 1957 c. 443 ss. 9 to 14; 1963 c. 224; 1965 c. 421; 1969 c. 286 ss. 8, 9, 52; 1969 c. 392 s. 42; Stats. 1969 s. 97.20.

A corporation which changes its name is not thereby required to secure a new license even though the transfer of a license is forbidden. 13 Atty. Gen. 620.

The dairy and food commissioner has authority to prescribe a rule authorizing revocation of a cheese factory license if the licensee manufactures unlawful cheese. 17 Atty. Gen. 241.

**97.22 History:** 1957 c. 443 s. 15; Stats. 1957 s. 97.045; 1963 c. 224; 1969 c. 286 ss. 10, 52; Stats. 1969 s. 97.22.

**97.24 History:** 1957 c. 443, 672; Stats. 1957 s. 97.046; 1959 c. 109; 1961 c. 27; 1965 c. 421; 1969 c. 276 s. 583 (1); 1969 c. 286 ss. 10, 52; 1969 c. 366 s. 117 (2) (a); Stats. 1969 s. 97.24.

On adulterated or insanitary milk see notes to 97.50 and 97.52.

A city ordinance prohibiting the sale of milk unless pasteurized within 5 miles of the city, as applied to an out-of-state milk dealer, imposes an unreasonable burden on interstate commerce. (Dean Milk Co. v. Madison, 257 W 308, 43 NW (2d) 480, reversed.) Dean Milk Co. v. Madison, 340 US 349.

See note to 62.11 (5), citing 21 Atty. Gen. 662.

**97.26 History:** 1939 c. 471; Stats. 1939 s. 97.05; 1943 c. 401; 1963 c. 224; 1969 c. 286 ss. 10, 21; Stats. 1969 s. 97.26.

**97.28 History:** 1939 c. 471; Stats. 1939 s. 97.06; 1943 c. 229; 1943 c. 375 s. 26; 1943 c. 401 s. 21; 1943 c. 515 s. 6; 1947 c. 510; 1953 c. 223; 1955 c. 24; 1961 c. 191; 1963 c. 224; 1969 c. 227; 1969 c. 286 s. 10; Stats. 1969 s. 97.28.

**Editor's Note:** 97.06 (2), Stats. 1947, was construed by the attorney general in an opinion published in 37 Atty. Gen. 20.

**97.30 History:** 1961 c. 191; Stats. 1961 s. 97.07; 1963 c. 224; 1967 c. 6; 1969 c. 286 s. 10; Stats. 1969 s. 97.30.

**97.32 History:** 1917 c. 362; Stats. 1917 s. 1410b-10; 1919 c. 104; 1923 c. 152 s. 196; Stats. 1923 s. 98.08; 1933 c. 453; 1935 c. 550 s. 205; Stats. 1935 s. 97.08; 1939 c. 218; 1943 c. 401; 1955 c. 652; 1969 c. 286 s. 10; Stats. 1969 s. 97.32.

**Editor's Note:** 98.08 (2), Stats. 1923, was construed by the attorney general in an opinion published in 14 Atty. Gen. 63.

**97.34 History:** 1917 c. 562, 657; 1917 c. 677 s. 11; Stats. 1917 s. 1410b-11; 1923 c. 152 s. 200; 1923 c. 331; Stats. 1923 s. 98.12; 1929 c. 96; 1931 c. 79 s. 18; 1935 c. 117, 352; 1935 c. 550 s. 206; Stats. 1935 s. 97.09; 1941 c. 216; 1943 c. 229; 1943 c. 375 s. 27; 1943 c. 401 s. 23; 1943 c. 515 s. 7; 1949 c. 430; 1953 c. 370; 1961 c. 292; 1963 c. 224; 1969 c. 286 ss. 10, 52; Stats. 1969 s. 97.34.

**Revisor's Note, 1935:** The last sentence of (9) of 98.12, Stats. 1933, has been left out because it contains an exception which has been declared unconstitutional in *Fitger Co. v.*

Kremer, 199 W 338, 226 NW 310. [Bill 454-S, s. 206.]

On regulation of the soda water business see opinions of the attorneys general published in 13 Atty. Gen. 337 and 19 Atty. Gen. 539.

**97.36 History:** 1953 c. 560; Stats. 1953 s. 97.10; 1969 c. 286 ss. 13, 52; Stats. 1969 s. 97.36.

When the legislature provided for the issuance of licenses under ch. 230, Laws 1903, as amended, it repealed the authority theretofore granted to cities to issue such licenses. The power of cities to require an additional license cannot rest in implication, and an ordinance of the city of Milwaukee imposing an additional license fee is unnecessary and unreasonable in fact and void. *Wisconsin Asso. of Master Bakers v. Milwaukee*, 191 W 302, 210 NW 707.

A city ordinance requiring persons engaged in the retail sale of food products (including baked goods) to secure a license from the municipality was not in conflict with 97.10 and 97.12 (regulating the production activities of bakeries)—for while the statute regulates one type of bakery operation, the ordinance regulated another, and no direct conflict resulted. *Johnston v. Sheboygan*, 30 W (2d) 179, 140 NW (2d) 247.

A partnership may be licensed to operate a bakery. 11 Atty. Gen. 299.

**97.38 History:** 1953 c. 560; Stats. 1953 s. 97.11; 1969 c. 286 ss. 16, 52; 1969 c. 392 s. 84; Stats. 1969 s. 97.38.

**97.40 History:** 1953 c. 560; Stats. 1953 s. 97.12; 1963 c. 224; 1969 c. 286 s. 16; 1969 c. 392 s. 84; Stats. 1969 s. 97.40.

**97.42 History:** 1965 c. 582; Stats. 1965 s. 97.20; 1967 c. 43; 1969 c. 227; 1969 c. 276 s. 367; 1969 c. 286 ss. 19, 52; Stats. 1969 s. 97.42.

**97.44 History:** 1967 c. 321; Stats. 1967 s. 97.21; 1969 c. 227; 1969 c. 286 s. 19; Stats. 1969 s. 97.44.

**97.46 History:** 1905 c. 33 s. 1; Supl. 1906 s. 4601e; 1911 c. 663 s. 504; 1925 c. 4; Stats. 1925 s. 352.12; 1935 c. 550 s. 225; Stats. 1935 s. 97.27; 1947 c. 384; 1947 c. 614 s. 21r; Stats. 1947 s. 97.27 (1), (2); 1957 c. 97, 227; 1961 c. 336; 1963 c. 524; 1967 c. 60; 1969 c. 392 s. 43, 43g; Stats. 1969 s. 97.46.

The sale of a preparation composed of 95% of boric acid and 5% of common salt intended to be used as a preservative in the canning of all kinds of fruits is a violation of the prohibition, in sec. 4601e, Stats. 1919, of the sale of "food" containing boric acid, such preparation being a "food" within the meaning of sec. 4600. *McCarthy v. State*, 170 W 516, 175 NW 785.

97.27 (1) does not prevent fluoridation of water by a city. *Froncek v. Milwaukee*, 269 W 276, 69 NW (2d) 242.

97.27 (1), Stats. 1951, has no application to fluoridation of municipal water supplies nor to the use of such water in the preparation of food products. 42 Atty. Gen. 160.

**97.47 History:** 1909 c. 399; 1911 c. 663 s. 506; Stats. 1911 s. 4601g; 1923 c. 333; 1925 c.

4; Stats. 1925 s. 352.14; 1935 c. 550 s. 226; Stats. 1935 s. 97.28; 1955 c. 543; 1969 c. 392 s. 43g; Stats. 1969 s. 97.47.

**97.48 History:** 1921 c. 409; Stats. 1921 s. 1410b—7; 1923 c. 152 s. 195; Stats. 1923 s. 98.07; 1925 c. 434; 1935 c. 550 s. 237; Stats. 1935 s. 97.39; 1945 c. 295, 363; 1951 c. 517; 1953 c. 61 s. 13; 1955 c. 24; 1967 c. 42; 1969 c. 392 s. 43g; Stats. 1969 s. 97.48.

**Editor's Note:** In *Coffee-Rich, Inc. v. McDowell*, 25 W (2d) 99, a judgment of the circuit court involving 97.39, Stats. 1963, was affirmed by a divided court; the circuit court had granted an injunction restraining the department of agriculture from interfering with the sale (in Wisconsin) of a product containing vegetable oil instead of butterfat.

The manufacture and sale of "Dairy Queen", which is a nutritious and wholesome, semi-frozen product containing no element deleterious to health, and composed of the same natural ingredients as ice cream but containing a lower percentage of butterfat and a higher percentage of nonfat milk solids than ice cream, and sold to the public only under its own distinct name and in retail outlets or stores selling no other product and labeling the nonedible containers as "Dairy Queen" and posting signs stating that "Dairy Queen" is not ice cream or sherbet, is not prohibited as an imitation of ice cream and as an adulterated product or sub-standard ice cream. The fact that a product may resemble ice cream in taste, texture and consistency does not necessarily make the product an imitation of ice cream. *Dairy Queen of Wisconsin, Inc. v. McDowell*, 260 W 471, 51 NW (2d) 34, 52 NW (2d) 791. See also 41 Atty. Gen. 135.

Preparation of so-called cream puff filling from a skim milk base with vegetable fat compounded therewith is in violation of 97.39 (2), Stats. 1937. 27 Atty. Gen. 370.

**97.50 History:** 1887 c. 157 s. 2; 1889 c. 344; 1889 c. 425 s. 2; Ann. Stats. 1889 s. 4607a; Stats. 1898 s. 4607a; 1899 c. 313 s. 1; 1903 c. 67 s. 1; 1905 c. 138 s. 2; Supl. 1906 ss. 4607a, 4607b—1, 4607b—4; 1909 c. 215; 1917 c. 592 s. 9; 1919 c. 679 s. 108; 1925 c. 4; Stats. 1925 ss. 352.25, 352.27, 352.30; 1935 c. 550 s. 234; Stats. 1935 s. 97.36; 1949 c. 300; 1963 c. 119; 1965 c. 321; 1969 c. 286 s. 29; Stats. 1969 s. 97.50.

A tubercular cow is a sick or diseased cow within the terms of sec. 4607a, Stats. 1913; the sale of cream from milk drawn from a sick or diseased cow is prohibited by sec. 4607. 3 Atty. Gen. 514.

As to cooperation with the state board of health regarding regulations concerning sanitary production of milk, cream, etc., see note to 140.05, citing 27 Atty. Gen. 516.

**97.52 History:** 1866 c. 6 s. 1; 1876 c. 380; R. S. 1878 s. 4607; 1878 c. 224; 1887 c. 157; 1889 c. 425; Ann. Stats. 1889 s. 4607; 1897 c. 106; Stats. 1898 s. 4607; 1899 c. 313 s. 1; 1903 c. 67 s. 2; 1905 c. 138 s. 1; Supl. 1906 ss. 4607, 4607b—1, 4607b—5; 1909 c. 14, 215; 1925 c. 4; Stats. 1925 ss. 352.24, 352.27, 352.31; 1935 c. 550 s. 235; Stats. 1935 s. 97.37; 1939 c. 492; 1969 c. 286 ss. 29, 36; Stats. 1969 s. 97.52.

Where a farmer living in one county sells his milk to a purchaser in another, the milk

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

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

**97.53 History:** 1901 c. 243 s. 1; 1905 c. 261 s. 1; Supl. 1906 s. 4608L; 1925 c. 4; Stats. 1925 s. 352.57; 1935 c. 550 s. 253; Stats. 1935 s. 97.53; 1953 c. 646.

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

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

## CHAPTER 98.

### Weights and Measures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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