

**1999 DRAFTING REQUEST**

**Bill**

Received: 09/20/1999

Received By: nilsepe

Wanted: As time permits

Identical to LRB:

For: Alberta Darling (608) 266-5830

By/Representing: Jessica

This file may be shown to any legislator: NO

Drafter: nilsepe

May Contact:

Alt. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies: **TNF, ISR**

**Pre Topic:**

No specific pre topic given

**Topic:**

Greenhouse vehicles considered farm vehicles

**Instructions:**

See Attached

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>        | <u>Typed</u>         | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u>            | <u>Required</u> |
|--------------|-----------------------|------------------------|----------------------|----------------|----------------------------|----------------------------|-----------------|
| /?           | nilsepe<br>09/21/1999 | csicilia<br>09/23/1999 |                      | _____          |                            |                            | State           |
| /1           |                       |                        | mclark<br>09/24/1999 | _____          | lrb_docadmin<br>09/24/1999 | lrb_docadmin<br>12/08/1999 |                 |

FE Sent For:

<END>

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Received: **09/20/1999**

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Wanted: **As time permits**

Identical to LRB:

For: **Alberta Darling (608) 266-5830**

By/Representing: **Jessica**

This file may be shown to any legislator: **NO**

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May Contact:

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For: Alberta Darling (608) 266-5830

By/Representing: Jessica

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|--------------|----------------|-----------------------------|--------------|-----------------|------------------|-----------------|-----------------|
| 1/?          | nilsepe        | 1 cjs 9/22/99<br>1 jlg 9/22 | MRC<br>9/24  | MRC/cmh<br>9/24 |                  |                 |                 |

FE Sent For:

<END>

Gordon,

s. 341.01 (18)(b)

change x-ref to

128.02 (2)(e)?

Here is the info  
el said el would forward

re: greenhouse/farm

vehicle legislation.

Call w/ ? 18

Jess  
Sen. Darling

6-5830

Jessica Tarney

1 STATE OF WISCONSIN IN CIRCUIT COURT WAUSHARA COUNTY

2 -----

3 STATE OF WISCONSIN, ) TRANSCRIPT OF PROCEEDINGS

4 Plaintiff, ) Case No. 95-TR-646

5 )

6 -vs-

7 )

8 KARTHAUSER & SONS, INC., )

9 Defendants. )

10 -----

11  
12 TRIAL TO THE COURT held in the above entitled matter  
13 on the 16th day of May, 1995. The Honorable Lewis Mürach,  
14 Circuit Judge in and for Waushara County, Wisconsin, presiding.

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17 APPEARANCES:

18 GUY DUTCHER, Waushara County District Attorney,  
19 representing the State of Wisconsin.

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1 THE COURT: This is the matter of State of Wis-  
2 consin v. Karthauser & Sons, Inc. The file number is  
3 95-TR-646. The matter is scheduled for a trial to the  
4 Court and the matter involves the use of a registered  
5 farm truck. The citation before the Court claims that  
6 on February 9, 1995 in Waushara County in the Town of  
7 Hancock, that there was misuse of a registered farm  
8 truck. The Court has pulled the applicable statutory  
9 sections, as I understand them, with regard to the  
10 definitions of farm truck and with regard to the statute  
11 that imposes certain uses of farm trucks. I think we  
12 are ready to proceed.

13 MR. DUTCHER: I am uncertain as to the position  
14 the defendant is taking. It would be my understanding  
15 based on discussions with the defendant that the issue  
16 that is going to be placed before you relates strictly  
17 to a legal interpretation and that there are no facts  
18 which are in dispute. If it's acceptable to the defend-  
19 ant, in an effort to save time, I would propose offering  
20 to the Court the facts as I understand them and if the  
21 defendant is not taking issue, we could perhaps proceed  
22 to determining the legal issues. Perhaps I can make  
23 an offer of proof.

24 THE COURT: What the District Attorney is saying  
25 is he is going to recite certain facts he believes are

1 the facts involved. You will then be given an oppor-  
2 tunity to say whether you disagree with any of the  
3 facts being true and if it turns out that you do not  
4 disagree with any of the facts, then the issue really  
5 is a legal issue, given this set of facts, that could  
6 be decided by the Court as a matter of law.

7 MR. DUTCHER: Your honor, the offer of proof I  
8 would submit would be as follows. On February 9th of  
9 this year at the Coloma scale which is located in Waushara  
10 County, Officer Sampon had contact with a vehicle driven  
11 by Richard White. Through the course of his contact  
12 with Mr. White, Officer Sampon was able to determine  
13 that Mr. White was operating a vehicle owned and  
14 operated by Karthauser & Sons of Germantown. During  
15 the contact, Officer Sampon determined that this vehicle  
16 was registered a farm vehicle with the Wisconsin Depart-  
17 ment of Transportation computer and that this vehicle  
18 was also registered to Karthauser & Sons. During the  
19 contact with Mr. White, Officer Sampon understood, based  
20 upon representations made by Mr. White, that this  
21 vehicle was being operated pursuant to the Karthauser  
22 & Sons business, specifically, essentially a nursery  
23 involving flowers, plants, foliage--essentially ag-  
24 ricultural products devoted strictly to flowers and  
25 what we will refer to as garden type materials. It

1 was indicated this is the only type of business that  
2 Karthauser & Sons was involved with and it was further  
3 indicated that the vehicle at the time of contact  
4 was being used pursuant to the business. Officer Sampon  
5 in fact confirmed that the vehicle was transporting  
6 what he will describe to be house plants and small  
7 nursery plants of a nature used to landscape a home.  
8 There were no agricultural products in the sense of  
9 cash crop or any other type of items that are routinely  
10 referred to as agricultural. That is the issue. The  
11 testimony would further indicate that the driver, Mr.  
12 White, further indicated that the Karthauser & Sons  
13 business was a nursery that was involved with propagating  
14 these plants through the use of a greenhouse and other  
15 types of propagation, and the vehicle was used in  
16 furtherance of this business which was devoted to  
17 gardening and nursery type plants used in the course  
18 of landscaping. Is that an accurate statement?

19 THE DEFENDANT: I have got one question. We are  
20 strictly indoor plants.

21 THE COURT: I would not have understood the refer-  
22 ence to be limited to indoor plants.

23 MR. DUTCHER: It was not intended to be. The plants  
24 are being described as garden plants used indoors or  
25 outdoors but devoted to visual pleasure and to land-



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scaping.

THE DEFENDANT: It's mostly indoor plants. We do grow geranium plants. If that's under the category of landscaping, I would say it's correct.

THE COURT: What I would understand from the District Attorney's comments would be that the plants in question would be either indoor or garden or decorative. This would be the kind of plant you could set out to make your yard or your home more decorative. Geraniums, whether they were potted outside or inside or if you had other decorative plants that would be used as part of the landscaping outdoors or as part of a decoration indoors. I would have understood it to be either.

MR. DUTCHER: In addition, the offer of proof would include a statement from Inspector Sampon relative to the difference between license fees paid for a commercial vehicle as opposed to a registered farm vehicle. That difference being approximately \$100.00 per vehicle. That would be the offer of proof that I would be making.

THE COURT: Do you disagree with any of the statements that the District Attorney has made?

THE DEFENDANT: No.

THE COURT: And are there further facts over and above what the District Attorney has recited that have application?

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THE DEFENDANT: Yes.

THE COURT: Tell me what you believe those facts to be?

THE DEFENDANT: Would you like to have a copy of this?

THE COURT: Show that to the District Attorney.

MR. DUTCHER: The defendant has been quite candid in dealing with my office and the only difficulty I have is that he has provided me with a packet of materials which to a layperson would appear to be relevant, but from my standpoint are not going to be admissible evidence. They would relate to discussions he had with his worker's compensation carrier and to other individuals which may have led him to the conclusion he was operating the vehicle property. But from the standpoint of the State, the evidence is not admissible. For that reason I am not going to be able to agree to a wholesale introduction of these materials unless some foundation has been laid. I am objecting, one, as to relevance and, two, that we don't even approach the hearsay requirement of the evidence.

THE COURT: Let me see the materials. There are certain sections of the vehicle code that pertain to the farm license and to the restrictions on the farm license as far as the uses to which it may be put. There

1 are certain definitions. Perhaps you could identify  
2 those sections.

3 MR. DUTCHER: The State is proceeding under Sec.  
4 341.045 and specifically that portion of the statute  
5 which prohibits the use of a registered farm vehicle  
6 in furtherance of a non-farm occupation, trade or  
7 profession. The penalty section relative to that par-  
8 ticular matter I believe is set forth in Sec. 341.04(2).

9 THE COURT: Are there further definitions of what  
10 is or is not a farm or non-farm occupation, trade or  
11 profession or employment?

12 MR. DUTCHER: At the time of argument the State  
13 will be submitting to the Court case law as well as  
14 relevant statutory law which are relevant to this par-  
15 ticular definition. We have a case that is literally  
16 on point from the mid 50's which interprets the  
17 statutory language which governs this particular section.  
18 I would be presenting that to the Court as authority  
19 for the position that we are taking. That case will  
20 direct the Court's attention to the Worker Compensation  
21 Code.

22 THE COURT: With regard to the license, is it my  
23 understanding that we have a farm license here?

24 MR. DUTCHER: Yes. The vehicle is registered as  
25 a farm vehicle and has a farm license.

1 THE COURT: And we don't have a dual license.

2 MR. DUTCHER: That's correct, we do not.

3 THE COURT: Do you agree with that?

4 THE DEFENDANT: Yes, I agree.

5 THE COURT: It does appear to me that we agree  
6 that this is a farm license and we agree essentially  
7 as to the activities that were being conducted with  
8 the truck and that the difference of opinion that brings  
9 us into court today is that the parties disagree with  
10 whether the activities fall within the farm license  
11 or fall outside the use of the farm license. This is  
12 a matter of law. Then the Court would look at the legal  
13 authorities that are provided and call the shot basically  
14 on the application of the law to the facts that have  
15 been agreed upon. I think we have a legal issue here  
16 and we don't have a factual dispute. I'm going to ask  
17 each of you to identify for me the legal authority upon  
18 which you are basing your case. The District Attorney  
19 referenced certain cases and certain sections and then  
20 I want to go over with you as the defendant what the  
21 language is that you are depending upon.

22 MR. DUTCHER: If it's acceptable I can probably  
23 describe the position that the State is taking through  
24 the course of a very brief argument which will cite  
25 references I am making to the statutes. Your honor,

1 the State is relying upon the provisions of Sec.  
2 102.04(3) which is under the Worker's Compensation Code  
3 and provides us with a working definition farm and farm  
4 operation. In particular, this definition excludes  
5 greenhouses or other similar structures used for  
6 production of food products and farm plants. I would  
7 agree with the defendant that this particular definition  
8 carries some ambiguity. The only difficulty I have  
9 is that this particular issue has been decided by our  
10 Wisconsin Supreme Court in a case that came down ap-  
11 proximately 40 years ago but which interpreted the same  
12 statutory language we are addressing today. In par-  
13 ticular, I am referring to Holton & Hunkel Greenhouse  
14 Co. v. State, 274 Wis. 337, 1956. This case, your honor,  
15 involves the issue of whether the raising of ginseng  
16 constituted farming activity and whether or not that  
17 activity allowed the bearer of the farm license to  
18 operate the vehicle pursuant to that particular occu-  
19 pation or business. In particular, on Page 342 of the  
20 case which I have cited and provided a copy both to  
21 the Court and to the defendant, the Court comes to the  
22 conclusion that the definition of a greenhouse and in  
23 particular a plant or type of plants grown within a  
24 greenhouse is not to be considered within the definition  
25 of a farm plant. In so holding, the Court specifically

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refers to the language in the Worker's Compensation Statute which I have directed your attention to. I will acknowledge that this particular language is somewhat dated. However, I would acknowledge the case is also dated. However, the language is unchanged. The Court cites the definition of farming that I have provided to you in Sec. 102.04(3) and states that particular definition is instructive as to whether or not the use of a vehicle is appropriate under a farm license when the plants that are involved are strictly recreational or plants used in a nursery setting. It is upon that basis that I would submit that the State is accurately interpreting the statute and is applying the statute to this particular situation. I would make the additional argument that it's not a circumstance where we are making a mountain out of a mole hill. It's not difficult to envision a large operation which has several different vehicles which are licensed as farm vehicles but should be licensed as commercial vehicles and the avoidance of a substantial license fee adds up rather quickly. I'm not certain whether that's the case with this situation, but the ramifications of this type of circumstance, I think, are relevant.

THE COURT: What you are telling me, and I can look to it also, is that this case references 102.04(3)

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and that Sec. 102.04(3) referenced in this old case is the same language as appears today?

MR. DUTCHER: I would direct the Court's attention to Page 341 which specifically refers to 102.04(4) which contains the definition of farming. Under today's code I believe that 102.04(3) which I would represent to the Court is, in essence, the same. I would also note that the Court also acknowledges that there may have been some ambiguity back then relative to the definition of farm including the word greenhouse being included within the definition of a farm. It goes through an analysis on Page 342. The triggering language is relevant and it's upon that basis the Court rendered its ruling relative to this very specific issue.

THE COURT: The Court has reviewed the part of the language that was quoted. The Holton case has quoted Sec. 102.04(4) of the 1953 statutes. And then it quotes a part of it and then it breaks it off showing that this is a quote of part but not all section quoted. In looking at the present language of Sec. 102.04(3), the language is identical to the point where it was cut off, where the partial quote ended. So, we are looking at identical language. It is word for word. It is totally unchanged up to the point--and a quick review of the remaining part of the section that the

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Court didn't quote as relevant, there is nothing under the present statute under that section that would appear to be relevant either. So, the language relied on under Sec. 102 remains not changed until today's date other than to be renumbered, apparently.

MR. DUTCHER: On item of clarification. The point which needs to be made is that the defendant's operation is principally devoted to the greenhouse germination of the plants in question. It is upon that basis that the State is making the assertion that the vehicle in question was being improperly used. The term nursery has been used loosely throughout the course of these proceedings and it's necessary for the Court to understand that the State's position is based upon the representation of the defendant and his driver that this particular product was being germinated within a greenhouse to a large extent.

THE COURT: I have been listening to the District Attorney trying to find out exactly the language upon which the State is relying. I think I am clear as to where the State is coming from. I want to now be clear that I understand where you are coming from. Let me spend a little bit of time with the materials that you have given to me. I want to understand what language you are relying on for the position you are taking.



The materials that you have given me have included some of the Worker's Compensation Code. Looking at Sec. 102.04 Definition of employer, under Sub. (3) saying that this paragraph shall not apply to farmers or farm labor. That under 102.04(3), "Farming means the operation of farm premises owned or rented by the operation. Farm premises means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants." I think it's clear if you fall under the definition of farming, then the transporting of the product is no problem. The problem is whether those products fall within the definition of farming. Some of these would logically follow from the production of farm plants. Farming means the production, among other things, and does not include greenhouses or other similar structures unless principally used for the production of food and farm plants. There is some further reference to the classification under the Workmen's Compensation and Employers Liability Policy that would show a designation of florists, cultivating or gardening, including drivers as one of those classifications. Under that same document there is a designation saying a farm is defined as any parcel of land used for the purpose of agriculture,

horticulture, viticulture, dairying, or stock or poultry raising, as a business or commercial venture. Then it goes on from there. I see other things that have been checked off. On the Facility Record Inspection Report of the Department of Agriculture the box "Ag Use" is checked and then there is the Employer's annual Tax Return for Agricultural Employees. I understand you to be saying by these documents that under the Workmen's Compensation Law, under the matters involving liability for employers, that the term agricultural is construed broadly and would include the kind of activities that you are engaged in.

THE DEFENDANT: Correct.

THE COURT: And for that reason, if the Court should apply that broad definition to the licensing provisions and find that when we look at the use of registered farm trucks, that your use would be included as a farm use. Is that what you are saying?

THE DEFENDANT: Yes, sir.

THE COURT: That's based largely upon the Workmen's Compensation and Employers Liability Statute, is that correct?

THE DEFENDANT: Correct. The definition of plant materials is on the burner because of the fact we do grow horticulture plants. It doesn't say anywhere in

these documents what plant material actually is. The inconsistency. I went through a State Inspector at the Kenosha scale two Sundays ago, being a greenhouse truck driver I was kind of shook up, and I got pulled over and they inspected my truck and the State Patrol had no question that we are farm vehicles. There is inconsistency between two State Inspectors. It's not listed as a document on the front page. This one came up two Sundays ago as further proof that we are accepted as farm vehicle according to the State Patrol.

THE COURT: Tell me what you mean by farm vehicle?

THE DEFENDANT: What we transport is strictly our own product. Plants that grow in our greenhouse. People ask me what my occupation is and I always say I'm a farmer under glass. It's been going on for years. We grow our plants inside. It's no different than putting a plant outside in the field. It has soil on it and needs soil to grow. It's a farm product. We are farmers under glass. The statute doesn't agree with me as the use of a vehicle as a farmer, but that's what we claim to be. The government says we are agriculture. We file our income tax under that category and we have been inspected by the State Police and considered farmers and we never had any question. I have been in business since '57. My dad worked there

1 for years. We are not the only greenhouse in the State  
2 of Wisconsin which carries farm license. I am sitting  
3 in this room kind of defending all the greenhouses in  
4 the state carrying the farm license, and there is a  
5 number of us. I have six vehicles. Six hundred dollars  
6 a year doesn't seem like a lot of money but it's still  
7 another \$600.00 I have got to pay to the State over  
8 and above everything else.

9 THE COURT: What is the amount of forfeiture that  
10 is being sought here?

11 MR. DUTCHER: Your honor, the amount that's noted  
12 on the ticket is \$114.00. From a technical standpoint  
13 a strict application of the statute would call for a  
14 bond amount of \$175.00, but that is not being sought.

15 THE COURT: The real issue, of course, is the  
16 licensing requirement and how that is to be applied.

17 MR. DUTCHER: I believe what we are looking at  
18 here is the question, as the Court noted, of statutory  
19 interpretation. We have guidance from the Supreme  
20 Court as to how the statute is to be interpreted and  
21 applied to the facts such as those in this case.  
22 Whether or not this statute is being appropriately  
23 applied in other areas of the state is not a matter  
24 before the Court at this time. That is a question that  
25 should be taken up probably in the form of a declaratory

1 judgment motion or action in the jurisdiction where  
2 the defendant does his primary business. But at this  
3 point this Court and the parties in this proceeding  
4 are left to interpret the statute and apply it to the  
5 facts of this case. I believe that in this particular  
6 action we have a violation and the matter which the  
7 defendant needs to address in terms of his entire fleet.  
8 The equity of the law and whether or not it's something  
9 that should be applied in a different manner is not  
10 before us and I would submit is a more appropriate  
11 matter of a declaratory judgment action of legislative  
12 mandate. We are left to deal with the law as it is  
13 written and the facts as presented and how the two  
14 correlate with one another. I submit that we don't  
15 have much of a choice in this particular instance.

16 THE COURT: Is there any further statement you  
17 wish to make?

18 THE DEFENDANT: Well, the only question I have  
19 is this question of farm plants. It's not production  
20 of food in Sec. 102.04(3) it says, ". . .and farm plants."  
21 I don't have any clarification of farm plants. Any  
22 farmer that hauls corn, he has got a farm license and  
23 I can't see any real clear definition of what is con-  
24 sisting of a farm plant. That's my big question. I  
25 think we clarified we are not a nursery. Actually,

1 the inconsistencies the State applies from one section  
2 of the state to the other kind of upsets me. I know  
3 my truck will come through Wautoma tomorrow coming  
4 from Stevens Point and I will probably be pulled  
5 over tomorrow because of a farm license. If you rule  
6 against me, how much time do we have to appeal this  
7 or change our license. I would like to have a clari-  
8 fication of that.

9 THE COURT: I'm not going to be able to solve all  
10 the problems here. The law does have ambiguity in it.  
11 The section that we are talking about uses words that  
12 are not defined. The language applicable is Sec.  
13 341.045 that regulates the use of farm trucks. It goes  
14 on to say, ". . .that a registered farm truck may not  
15 be used in furtherance of any nonfarm occupation, trade,  
16 profession or other employment, including commuting  
17 to or from the place of such nonfarm occupation, trade,  
18 profession or employment." And so we do get into the  
19 definition here as to what the outside limits are for  
20 a registered farm truck and it says, in essence, that  
21 it cannot be used for any nonfarm occupation, trade  
22 or profession, and so forth. When you go to the  
23 statutes, the statutes contain vague language and that  
24 was the problem that was presented in the Holton case.  
25 The farm trucks were being used and there was an issue

1 then whether the use fell within the agricultural  
2 language of Sec. 341.045. The Court there, like the  
3 Court here, finds there is no definition and you can  
4 argue it either way. I think if that were the end of  
5 the story, I would find for the defendant here on the  
6 basis that a regulatory provision has to be clear and  
7 that if it can reasonably be construed either way, then  
8 it should be construed in the least restrictive rather  
9 than the most restrictive way. The argument that was  
10 presented to the Holton Court is pretty much the same  
11 argument that's been presented here today. The argument  
12 in the Holton case that the Workmen's Compensation  
13 section defines this rather broadly and by that  
14 definition a lot of the activities here will be included  
15 as farming despite language else where under the things  
16 that excluded greenhouses, nurseries and certain other  
17 things. That's what the Court dealt with in the Holton  
18 case. Our statute contains no definition of farm or  
19 farming concerning the licensing of motor vehicles and  
20 so we then look to other definitions and they then cite  
21 the language under Sec. 102.04(4) which they rely upon  
22 then to make their definition. That language remains  
23 unchanged other than that the same language still appears  
24 under 102.04 but Sub-Sec. (3) rather than Sub-Sec. (4).  
25 "Farming means the operation of farm premises owned

1 or rented by the operator. Farm premises means areas  
2 used for operations herein set forth, but shall not  
3 include other areas, greenhouses, or other similar  
4 structures unless used principally for the production  
5 of food and farm plants." It goes on from there to  
6 say, "As used in this subsection, the term farm includes  
7 stock, dairy, poultry, fruit, fur-bearing animal, and  
8 truck farms, plantations, ranches, nurseries, ranges,  
9 greenhouses, or other similar structures used primarily  
10 for the raising of agricultural or horticultural com-  
11 modities, and orchards." They are talking about the  
12 Unemployment Compensation Act here. When you look at  
13 at the Unemployment Compensation Act it includes all  
14 kinds of things that were not included under the Work-  
15 men's Compensation Act and that was the battle. We  
16 don't have any of that apply directly to the vehicle,  
17 what should be applied. The Court in that case then  
18 resolved this by using the lesser definition. The  
19 Court says, in citing the Unemployment Compensation  
20 Statute, "A reading of this statute discloses that the  
21 activities of such department are intended to extend  
22 into fields beyond that which is ordinarily understood  
23 to be farming. For example, Sec. 93.07(4) Stats. 1953,  
24 provides for state aid to the Wisconsin Horticulture  
25 Society, an organization which, among other things,



1 renders service to home gardeners growing flowers for  
2 pleasure and not for profit. Likewise, the department's  
3 inspection duties with respect to plant diseases is  
4 not limited to plants grown commercially. This being  
5 the case, it is only natural that in defining farm  
6 products, Chapter 85, Stats., 1853, would use the widest  
7 possible definition to be consistent with the widespread  
8 functions of the department of agriculture." It goes  
9 on then to say, "In view of widespread planting of trees  
10 by farmers under the State's reforestation program,  
11 and the sale by farmers of wood and timber from farm  
12 wood lots, we deem that trees are farm plants within  
13 the definition of farming. . ." But the Court then  
14 essentially adopts the definition not set forth in the  
15 Unemployment Compensation Act but rather in the Work-  
16 men's Compensation Act. It decided the issue that is  
17 presented here today in favor of the position being  
18 argued by the State. Based upon that and in looking  
19 at this case and this case is current, it has not been  
20 reversed or otherwise modified?

21 MR. DUTCHER: Not to my knowledge.

22 THE COURT: And the language that the case relies  
23 upon from the Workmen's Compensation State, I com-  
24 pared with our current statute and it's the same. So,  
25 I think I am bound by the case to find that in order

1 to be used legally, it has to be used for farming  
2 and the production of farm plants. The definition  
3 does not include non-farm plants. The Court here  
4 approved nurseries to the extent that a nursery may  
5 be used for farm activities. "In view of widespread  
6 planting of trees by farmers under the state's re-  
7 forestation program, and the sale by farmers of wood  
8 and timber from farm wood lots, we deem that trees are  
9 farm plants. We, therefore, can perceive no persuasive  
10 reason why the conducting of a nursery. . ." I would  
11 think the nurseries being talked about are the nurseries  
12 that are producing products for farms. So, if you are  
13 a starter nursery for reforestation and people buy  
14 young trees and plant them for timber, clearly you fall  
15 within the farming definition. But that's not what  
16 we have here. So, I am going to find that your license  
17 is not proper. That the use of the farm license for  
18 the activities you have described is not legal, based  
19 on Sec. 102 as interpreted by Holton and so the State  
20 has indeed proven its case. The Court will impose  
21 a forfeiture of \$25.00. The real problem is the one  
22 you mentioned when the truck rolls through town tomorrow  
23 or the next day. I would suggest to you, first of all,  
24 if you have an attorney representing your firm, you  
25 should probably talk with him right away. My advice

1 to you would be to relicense them. I don't know what  
2 that cost would be. If you wish to appeal this decision,  
3 you are certainly free to do that, but the usual rule  
4 is that unless there is some stay of the State's en-  
5 forcement of its laws pending appeal, and you are not  
6 likely to get that, that you best be right because  
7 otherwise you know all those are going to pile up. I  
8 think the prudent thing to do is relicense and appeal  
9 if you wish to appeal and then if the appeal is decided  
10 favorably to you and these activities are found by  
11 our Court now to be within the definition which they  
12 weren't before then, to relicense back. I think that's  
13 the safest procedure. But, you talk with your attorney  
14 about that. My decision is that the license was im-  
15 properly used for the purposes described. I see no  
16 other way to do it under this case. That's precisely  
17 what was decided before and that's precisely the argument.  
18 I cannot invent the law when the Supreme Court told  
19 me what it is. I'll give you a nominal fine of \$25.00,  
20 but the real problem is licensing. Is there anything  
21 further?

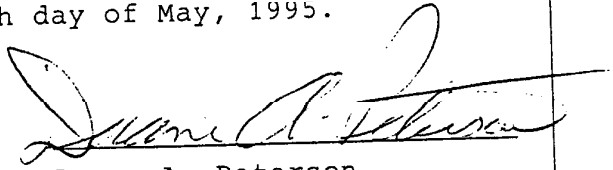
22 MR. DUTCHER: No, your honor.

23 THE COURT: That will conclude the hearing.

24 (Whereupon, the trial held in the above matter  
25 on the 16th day of May, 1995, was concluded.)

1 STATE OF WISCONSIN)  
 ) ss.  
2 COUNTY OF WAUSHARA)

3  
4 I, Duane A. Peterson, Circuit Court Reporter in and  
5 for Waushara County, Wisconsin, do hereby certify that the above  
6 and foregoing is a true and complete transcript of the hearing  
7 held in the above matter on the 16th day of May, 1995.



Duane A. Peterson  
Circuit Court Reporter  
Waushara County, Wisconsin

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KARTHAUSER & SONS, INC.  
W147 N11100 Fond du Lac Ave.  
Germantown, Wisconsin 53022

March 3, 1995

Guy Dutcher  
Waushara County District Attorney  
PO Box 490  
Watoma, WI 54982

RE: Citation # U256973-3

We are disputing citation U256973-3 using the enclosed documentation.

- Document #1 copy of citation
- Document #2 copy of WI DOT State Patrol Motor Carrier Incident Report
- Document #3 copy of issuing officer's justification for citation
- Document #4 copy of Karthausser & Sons Inc Worker's Compensation Policy
- Document #5 copy of explanation of Worker Compensation CODES
- Document #6 copy of latest IRS Form 943 (for Agricultural Employees)
- Document #7 copy of latest WI Dept of Agriculture Inspection Report

~~In a sample used 89-90 Wis Stats for Workers Compensation to say a Greenhouse was not a "farming" business. He also maintains "flowers" are not farm plants.~~

We called Wisconsin Dept of Transportation asking how we were issued FARM plates if the WI State Patrol says we are not. We were told anyone can apply for FARM plates and receive them. The Wisconsin Dept of Transportation does not require proof if you are an agricultural business or not.

We then called our Workers Compensation Carrier. If the Wisconsin State Patrol used Workers Compensation to say we were not a farm business, and we thought we were, just what did Workers Compensation classify us as? Our Workers Compensation Carrier sent us a detailed explanation of CODES. As you can see on DOC #4, we are code 0035. Page C20 with an effective date of September 1, 1992 says we fall under the FARM category. Page G9 with an issue date of February 1, 1994 says FLOWERS falls under the FARM PRODUCTS category. If our Workers Compensation Carrier considers us an "Agricultural/Farm" business, how can the Wisconsin State Patrol not?

IN down  
-NUNY-  
-NUNY-

WATOMA

page 2

RE: Citation # U256973-3

Further, we are providing a copy of our 1994 IRS Form 943. "Agricultural" business do not fill out IRS Form 941 on a quarterly basis. "Agricultural" business fill out Form 943 on an annual basis. If the IRS considers us an "Agricultural" business, how can the Wisconsin State Patrol not?

Further, we are providing a copy of our February 1995 Wisconsin Dept of Agriculture - Agricultural Resource Management Division Facility/Record Inspection Report. This report is marked "AG Use". Why would the Wisconsin Dept of Agriculture have a need to come and inspect our business if we were not an "Agricultural/Farm" business?

We hope all this documentation will show you we are a "FARM" business and flowers are considered "FARM PLANTS". Please let us know what you decide.

Thank You,

Gerald T Karthaus  
Vice President

GTK:lkp  
encl

Talked to Dutcher 3/16  
He refuses to ~~to~~ dispute Sampson's ticket.  
Asked for Hearing.  
Called Ins carrier 3/30  
asked for letter saying they do use  
WI law to cover us under work.Comp.  
Added Note - see State Patrol Report  
dated 5/7/95. Classifies us as  
FARM with no violations.

U256973-3

2 DEPOSIT/BAIL PERMITTED \$ 114.00 Estimated Points (This Citation) 3.00

1 You Are Notified To Appear Is this a mandatory Court Appearance? YES NO

5 Defendant Name Last, First, MI. KARTMAGLER, ERSON'S INC

6 Read the reverse side of this citation for court information! ON: 03-27-95 AT 1:30 AM

6 Street Address 747 N. MILWAUKEE BLVD. GERMAN TOWN, WI 53032

WHERE: Circuit Municipal

7 Driver License Number 8 State 9 Exp. Yr. 10 License As: Classified Class Endorsement

11 ST. MARIE ST. WAUWATAMA, WI 54982

13 Date of Birth 14 Sex 15 Race 16 HT. 17 WT. 18 Hair 19 Eyes 20 Operating As: Classified Class Endorsement

19 License Plate or VIN 20 Plate Type 21 State 22 Exp. Yr. 23 Year/Make of Vehicle

24 Defendant Violated: Ord. No. 25 Adopting State Statute No. 341.045

26 Description of Violation MISUSE OF REGISTERED P-ARM TRUCK

27 Waiver M P H 31 Actual 32 Legal 33 Over

34 Week Day 35 Month - Day - Year 36 Time 37 County

38 City/Village/Town WAUWATAMA HANCOCK

39 ON Hwy No. and / or Street Name U.S. 51

40 Estimate Distance 41 FROM IAT Hwy No. and / or Street Name

43 Print Officer Name INSPE P. SAMONIN

44 Dept. WSP-4 45 Officer ID No. 1667 46 Date Citation Issued 03-27-95 47 Accident Severity Fatal PIPD

Wisconsin Uniform Citation MV4016 (793) 1 s. 345.11, Wis. Stats.

Citation serves as a Driver License Receipt until above Court date: YES NO

Not guilty

SEQUENCE NUMBER: 275904

PROGRAM NUMBER:

INSPECTION DATE: 02/09/95  
HIGHWAY: 2  
LOCATION: CULORA SCALE 44

TOW: WAUSHARA  
COUNTY: WAUSHARA  
MUNICIPALITY: HANCOCK

TIME STOPPED: 11:45 AM  
TIME COMPLETED: 11:56 AM  
(TOWN)

OWNER  
NAME: FLECT SERVICES INC  
DBA:  
ADDR: PO BOX 14709 7400 W NATIONAL AV  
CITY: WEST ALLIS ST: WI ZIP: 53214

CARRIER / LESSEE-1  
NAME: KARTHAEGER AND SONS INC  
DBA:  
ADDR: W147 N11100 FON DU LAC AV  
CITY: GERMANTOWN ST: WI ZIP: 53029

VEH TYPE: TRUCK MAKE: NISSA YR: 1994 UNITS:  
VIN CHD: Y PLATE TYPE: FRM PLATE#: 3565F VIN: JW6AJF1H4RL000023  
LIC. WEIGHT: 12000 ST: WI EXPIRES: 02/28/96

AUTHORITIES:

PERMIT STAMP: LEASE CARRIED: INSURANCE FILED: FUEL TAX:  
HAUL: PRIVATE INTRASTATE

PLACARDS REQUIRED?: NO HAZARDOUS MATERIAL NOTED

COMMODITY: FLOWERS & PLANTS  
INVOICE NUMBER:  
CONSIGNOR: LIENHOUSE STATE: WI  
ORIGIN CITY: GERMANTOWN STATE: WI  
CONSIGNEE: FLORAL SHOPS  
DEST. CITY: FRIENDSHIP

CITATION SECTION TYPE OF VIOLATION NOTICE ISSUED TO:

| CITATION   | SECTION                 | TYPE OF VIOLATION   | NOTICE ISSUED TO: |
|--|-------------------------|---------------------|-------------------|
| U236973-3  | 341.045                 | WI STATS. CARRIER   |                   |
| UNIT 1 MISUSE OF REGISTERED FARM TRUCK                                 |                         |                     |                   |
| NON-FARM OPERATION   |                         |                     |                   |
| DEPOSIT  | 50.00 + PENALTY ASSESS. | 11.00 + OTHER COSTS | 53.00 = \$ 114.00 |
| TOTAL DEPOSIT = \$ 124.00  |                         |                     |                   |
| U236973-4  | 347.981(2)(b)           | WI STATS. DRIVER    |                   |
| OPERATING A VEHICLE WITHOUT BEING PROPERLY RESTRAINED IN A SAFETY BELT |                         |                     |                   |
| DEPOSIT  | 10.00 + PENALTY ASSESS. | 0.00 + OTHER COSTS  | 0.00 = \$ 10.00   |

*Not guilty*

DRIVER NAME: RICHARD J WHITE  
DRIVER LICENSE: W3007503400303 ST: WI CLASS: B  
SEX: M RACE: EYES: BLU  
HAIR: BRO HT: 6'01" WT: 240 SIGNATURE: *Richard J White*  
DOB: 03/03/1934

WISCONSIN DEPARTMENT OF TRANSPORTATION, DIVISION OF STATE PATROL  
SEQUENCE NUMBER: 275904 PAGE 2 OF 2

REPORT ISSUED BY: *P. Sampson* WSP NO: 1667  
P. SAMPSON 02/09/95

*Document #2*



2-11-95

ENCLOSED IS SOME INFORMATION  
REGARDING FARMING AND FARM TRUCK  
REGISTRATION PERTAINING TO THE  
CITATION ISSUED FOR MISUSE OF  
FARM PLATES.

INSP. P. SAMPON



We are happy to provide you with the enclosed material and hope you will find it both interesting and useful. If we can assist you further in any way, please call us.

Division of State Patrol  
 Wisconsin Dept. of Transportation  
 P.O. Box 7912  
 Madison, Wisconsin 53707-7912

TELEPHONE (608) 266-3212  
 FAX (608) 267-4495

BFSST-4070 1094

Provider of medical services to employe does not have cause of action against employer under worker's compensation act where employer denied liability and compromised employe's claim. *La Crosse Lutheran Hospital v. Oldenburg*, 73 W (2d) 71, 241 NW (2d) 875.

Doctrines of required travel, dual purpose, personal comfort, and special mission discussed. *Sauerwein v. DILHR*, 82 W (2d) 294, 262 NW (2d) 126.

Personal comfort doctrine did not apply where employe was injured neither on employer's premises nor during specific working hours. Denial of benefits for injury received while eating lunch off employer's premises was not denial of equal protection. *Marmolejo v. ILHR Dept.* 92 W (2d) 674, 285 NW (2d) 650 (1977).

Presumption in favor of traveling employes does not modify requirements for employer liability. *Goranson v. DILHR*, 94 W (2d) 537, 289 NW (2d) 270 (1980).

Sub. (2) does not unconstitutionally deprive third party tort-feasor of property by barring contribution action against negligent employer. *Mulder v. Acme Cleveland Corp.* 95 W (2d) 173, 290 NW (2d) 276 (1980).

Use of parking lot is prerequisite for coverage under (1) (c) 1. *Jaeger Baking Co. v. Kreischmann*, 96 W (2d) 590, 292 NW (2d) 622 (1980).

See note to art. I, sec. 1, citing *State ex rel. Briggs & Stratton v. Noll*, 100 W (2d) 650, 302 NW (2d) 487 (1981).

Sub. (2) is constitutional. *Oliver v. Travelers Ins. Co.* 103 W (2d) 644, 309 NW (2d) 383 (Ct. App. 1981).

Employer who provided negligent medical care to employe injured on job was not subject to tort liability for malpractice. "Dual capacity" theory discussed. *Jenkins v. Sabourin*, 104 W (2d) 309, 311 NW (2d) 600 (1981).

Repeated work-related back trauma was compensable as occupational disease. *Shelby Mut. Ins. Co. v. DILHR*, 109 W (2d) 655, 327 NW (2d) 178 (Ct. App. 1982).

Injury due to horseplay was compensable. Positional risk doctrine discussed. *Bruus Volkswagen, Inc. v. DILHR*, 110 W (2d) 319, 328 NW (2d) 886 (Ct. App. 1982).

Where employe who witnessed injury to another was active work-related participant in tragedy, resulting nontraumatic psychic injury was compensable. *International Harvester v. LIRC*, 116 W (2d) 298, 341 NW (2d) 721 (Ct. App. 1983).

"Horseplay" rule barred recovery where decedent jokingly placed head inside mold compression machine and accidentally started it. *Nigbor v. DILHR*, 115 W (2d) 606, 340 NW (2d) 918 (Ct. App. 1983); aff'd 120 W (2d) 375, 355 NW (2d) 532 (1984).

Employe injured by machinery manufactured by corporation which merged with employer prior to accident could recover in tort against employer under "dual persona" doctrine. *Schweiner v. Hartford Accident & Indemnity Co.* 120 W (2d) 344, 354 NW (2d) 767 (Ct. App. 1984).

"Positional risk" doctrine applied to facts of case so that murder of employe by co employe off work premises was injury arising out of employment. *Applied Plastics, Inc. v. LIRC*, 121 W (2d) 271, 359 NW (2d) 168 (Ct. App. 1984).

Act provides exclusive remedy for injuries sustained as result of company doctor's negligence. *Franko v. Durkee*, 141 W (2d) 172, 413 NW (2d) 667 (Ct. App. 1987).

"Dual persona" standard adopted, replacing "dual capacity" doctrine. Third party may recover from employer only when employer has operated in distinct persona as to employe. *Henning v. General Motors Assembly*, 143 W (2d) 1, 419 NW (2d) 551 (1988).

See note to 102.29, citing *Couillard v. Van Ess*, 152 W (2d) 62, 447 NW (2d) 391 (Ct. App. 1989).

Discussion of "loaned employe" doctrine as it relates to exclusivity provision. *Gansch v. Nekoosa Papers, Inc.*, 152 W (2d) 666, 449 NW (2d) 307 (Ct. App. 1989) (petition to review granted).

The exclusive remedy provision does not bar a ship owner from asserting a right to indemnification against the employer of the injured man even though he has been paid compensation. *Bagrowski v. American Export Isbrandtsen Lines, Inc.* 440 F (2d) 502.

Emotional distress injury due to sexual harassment was exclusively compensable under this section. *Zabkowiec v. West Bend Co., Div. Dart Industries*, 789 F (2d) 540 (1986).

Under either Minnesota or Wisconsin law, airline which paid compensation benefits to stewardess under laws of Minnesota was not liable to U.S. on theory of indemnity or contribution for any recovery by stewardess in her tort action against U.S. for same injury which occurred in Wisconsin. *Herman v. U.S.* 382 F Supp. 818.

Third party was required to pay 95% of damages even though only 25% negligent because employer was shielded by (2). *Schuldtis v. Service Mach. Co. Inc.* 448 F Supp. 1196 (1978).

Plaintiff was special employe of third-party defendant and third-party action was barred by exclusivity provisions of this section. *Simmons v. Atlas Vac Mach. Co.* 493 F Supp. 1082 (1980).

Although employer of injured employe was found to be at fault, manufacturer also found to be at fault was not entitled to contribution from employer. *Ladwig v. Emmanco Inc.* 504 F Supp. 1229 (1981).

**Definition of employer.** (1) The following shall constitute employers subject to the provisions of this chapter, within the meaning of s. 102.03:

(a) The state, each county, city, town, village, school district, sewer district, drainage district and other public or quasi-public corporations therein.

(b) 1. Every person who usually employs 3 or more employes, whether in one or more trades, businesses, professions or occupations, and whether in one or more locations.

2. Every person who usually employs less than 3 employes, provided the person has paid wages of \$500 or more in any calendar quarter for services performed in this state. Such employer shall become subject on the 10th day of the month next succeeding such quarter.

~~Employer shall not apply to farmers or farm labor.~~

(c) Every person engaged in farming who on any 20 consecutive or nonconsecutive days during a calendar year employs 6 or more employes, whether in one or more locations. The provisions of this chapter shall apply to such employer 10 days after the twentieth such day.

(d) Every joint venture electing under s. 102.28 (2) (a) to be an employer.

(c) Every person to whom pars. (a) to (d) are not applicable, who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the injury to the employe for which compensation may be claimed, shall, as provided in s. 102.05, have elected to become subject to the provisions of this chapter, and who shall not, prior to such accident, have effected a withdrawal of such election.

(2) Except with respect to a partner electing under s. 102.075, members of partnerships shall not be counted as employes. Except as provided in s. 102.07 (5) (a), a person under contract of hire for the performance of any service for any employer subject to this section (1961) shall not constitute an employer of any other person with respect to such service and such other person shall, with respect to such service, be deemed to be an employe only of such employer for whom the service is being performed.

3A/d/d

(3) As used in this chapter "farming" means the operation of farm premises owned or rented by the operator. "Farm premises" means areas used for operations herein set forth, but does not include other areas, greenhouses or other similar structures unless used principally for the production of food and farm plants. "Farmer" means any person engaged in farming as defined. Operation of farm premises shall be deemed to be the planting and cultivating of the soil thereof; the raising and harvesting of agricultural, horticultural or arboricultural crops thereon; the raising, breeding, tending, training and management of livestock, bees, poultry, fur-bearing animals, wildlife or aquatic life, or their products, thereon; the processing, drying, packing, packaging, freezing, grading, storing, delivering to storage, to market or to a carrier for transportation to market, distributing directly to consumers or marketing any of the above-named commodities, substantially all of which have been planted or produced thereon; the clearing of such premises and the salvaging of timber and management and use of wood lots thereon, but not including logging, lumbering or wood cutting operations unless conducted as an accessory to other farming operations; the managing, conserving, improving and maintaining of such premises or the tools, equipment and improvements thereon; and the exchange of labor, services or the exchange of use of equipment with other farmers in pursuing such activities.

The operation for not to exceed 30 days during any calendar year, by any person deriving the person's principal income from farming, of farm machinery in performing farming services for other farmers for a consideration other than exchange of labor shall be deemed farming. Operation of such premises shall be deemed to include also any other activities commonly considered to be farming whether conducted on or off such premises by the farm operator.

History: 1975 c. 199; 1983 a. 98; 1989 a. 64.

When an employe simultaneously performs service for 2 employers under their joint control and the service for each is the same or closely related, both employers are liable for workmen's compensation. Insurance Co. of N. A. v. I.L.R. Dept. 45 W (2d) 361, 173 NW (2d) 192.

102.05 Election by employer, withdrawal. (1) An employer who has had no employe at any time within a continuous period of 2 years shall be deemed to have effected withdrawal, which shall be effective on the last day of such period. An employer who has not usually employed 3 employes and who has not paid wages of at least \$500 for employment in this state in any calendar quarter in a calendar year may file a withdrawal notice with the department, which withdrawal shall take effect 30 days after the date of such filing or at such later date as is specified in the notice.

(2) Any employer who shall enter into a contract for the insurance of compensation, or against liability therefor, shall be deemed thereby to have elected to accept the provisions of

this chapter, and such election shall include farm laborers, domestic servants and employes not in the course of a trade, business, profession or occupation of the employer if such intent is shown by the terms of the policy. Such election shall remain in force until withdrawn in the manner provided in sub. (1).

(3) Any person engaged in farming who has become subject to this chapter may withdraw by filing with the department a notice of withdrawal, providing he has not employed 6 or more employes as defined by s. 102.07 (5) on 20 or more days during the current or previous calendar year. Such withdrawal shall be effective 30 days after the date of receipt by the department, or at such later date as is specified in the notice. Such person may again become subject to this chapter as provided by s. 102.04 (1) (c) and (e).

History: 1983 a. 98 s. 31.

102.06 Joint liability of employer and contractor. An employer shall be liable for compensation to an employe of a contractor or subcontractor under the employer who is not subject to this chapter, or who has not complied with the conditions of s. 102.28 (2) in any case where such employer would have been liable for compensation if such employe had been working directly for the employer, including also work in the erection, alteration, repair or demolition of improvements or of fixtures upon premises of such employer which are used or to be used in the operations of such employer. The contractor or subcontractor, if subject to this chapter, shall also be liable for such compensation, but the employe shall not recover compensation for the same injury from more than one party. The employer who becomes liable for and pays such compensation may recover the same from such contractor, subcontractor or other employer for whom the employe was working at the time of the injury if such contractor, subcontractor or other employer was an employer as defined in s. 102.04. This section does not apply to injuries occurring on or after the first day of the calendar quarter beginning after the day that the secretary files the certificate under s. 102.80 (3) (a).

History: 1975 c. 147 s. 54; 1975 c. 199; 1989 a. 64.

"Contractor under" is one who regularly furnishes to a principal employer materials or services which are integrally related to the finished product or service provided by that principal employer. Green Bay Packaging, Inc. v. DILHR, 72 W (2d) 26, 240 NW (2d) 422.

Franchisee held to be "contractor under" franchisor within meaning of this section. Maryland Cas. Co. v. DILHR, 77 W (2d) 472, 253 NW (2d) 228.

Employe who was loaned from company which provided temporary help to other companies became special employe of borrowing company. Meka v. Falk Corp. 102 W (2d) 148, 306 NW (2d) 65 (1981).

Liability of principal employer for injuries to employes of his contractors or subcontractors. 1977 W.L.R. 185.

102.07 Employee defined. "Employee" as used in this chapter means:

(1) (a) Every person, including all officials, in the service of the state, or of any municipality therein whether elected or under any appointment, or contract of hire, express or implied, and whether a resident or employed or injured within or without the state. The state and any municipality may require a bond from a contractor to protect the state or municipality against compensation to employes of such contractor or employes of a subcontractor under the contractor. This paragraph does not apply beginning on the first day of the calendar quarter beginning after the day that the secretary files the certificate under s. 102.80 (3) (a).

(b) Every person, including all officials, in the service of the state, or of any municipality therein whether elected or under any appointment, or contract of hire, express or implied, and whether a resident or employed or injured within or without the state. This paragraph first applies on the first day of the

**RENEWAL OF NUMBER: [REDACTED] AND EMPLOYERS LIABILITY POLICY**

**INFORMATION PAGE**

**FLORISTS' MUTUAL INSURANCE COMPANY**  
**EDWARDSVILLE, ILLINOIS**  
**NCCI COMPANY NO. 17507**  
**ACCOUNT NO.**

Participating  
 Nonassessable Policy

WCS08855-93

POLICY NO. **WCS08855-94**

**0003939**

**INSURED/MAILING ADDRESS:**

Karthauser & Sons Inc  
 W 147-N 11100 Fond Du Lac Ave  
 Germantown WI 53022

**39-1708827**

**INSURED'S I.D. #**

**238000069**

**RISK I.D. #**

**FORM OF BUSINESS: CORPORATION**

Other workplaces not shown above: As above and/or elsewhere in the states shown in item #3

**POLICY PERIOD:** The policy period is from **04/01/94** to **04/01/95** 12:01 a.m. Standard Time, at the insured's mailing address.

**COVERAGE:**

**A. Workers Compensation Insurance:** Part One of the policy applies to the Workers Compensation Law of the states listed here:

**B. Employers Liability Insurance:** Part Two of the policy applies to work in each state listed in item 3.A. The Limits Of Liability Under Part Two Are:

|                           |                      |               |
|---------------------------|----------------------|---------------|
| Bodily Injury by Accident | \$ <u>100,000.00</u> | each accident |
| Bodily Injury by Disease  | \$ <u>500,000.00</u> | policy limit  |
| Bodily Injury by Disease  | \$ <u>100,000.00</u> | each employee |

**C. Other States Insurance:** Part Three of the policy applies to all states except Nevada, North Dakota, Ohio, Washington, West Virginia, Wyoming, and states designated in Item 3.A above.

**D. This policy includes these endorsements and schedules:** WC 00 00 00A(04-92), WC 00 04 06(03-85), WC 00 04 14(07-90), WC 48 06 01 B(04-94), WCJ(10-86),

**PREMIUM:** The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit.

| Classifications  | Code No. | Premium Basis<br>Total Estimated<br>Annual Remuneration | Rate Per<br>\$100 of<br>Remuneration | Estimated Annual<br>Premium |
|--|----------|---|--------------------------------------|-----------------------------|
| <del>Class</del> Cultivating or Gardening<br>including drivers | 8055 *   |   | 3.96                                 |                             |
| Florists - Store, including drivers                            | 8001     |   | 2.72                                 |                             |
| Technical Office Employees, H.O.C.                             | 8810     |   | .32                                  |                             |

|                      |           |           |        |        |            |
|----------------------|-----------|-----------|--------|--------|------------|
| Experience Rating    | Premium   | Expense   | Other: | Other: | Surcharge: |
| Modification Factor: | Discount: | Constant: |        |        |            |
| .710                 | 415.00-   | 160.00    |        |        |            |

Total Estimated Annual/Deposit Premium:

Minimum Adjustment Period: Annual  
 Name of Producer **BRIAN FERGASON**

Minimum Premium:

Countersigned by: *[Signature]*

Date **04/08/94**

Producing Office **EDWARDSVILLE, IL**

Document #4

EXPLOSIVES OR AMMUNITION MFG:—Continued

CARTRIDGE MFG OR ASSEMBLY—small arms . . . 3574  
Includes mfg. of components, other than cartridge case mfg., mbdng or fulminate, charging or loading. Explosives or fulminate mfg. to be separately rated.

CARTRIDGE OR SHELL CASE MFG—metal . . . . . 3318  
Insertion of percussion caps or primers, loading or testing with explosives to be separately rated.

★ FIREWORKS MFG & Drivers . . . . . 4779  
Fireworks exhibitions to be separately rated as 9180.

Code 0779 shall be assigned in conjunction with this code to reflect the non-ratable catastrophe loading. Premium generated by Code 0779 is not subject to experience rating or retrospective rating.

★ HIGH EXPLOSIVES MFG & Drivers . . . . . 4773  
Includes the manufacture of explosives recognized by the Bureau of Explosives as "High Explosives" such as dinitrotoluol, double base powders, dynamite, fulminates, nitroglycerine, nitro starch, picrates, picric acid, tetryl and trinitrotoluol.

Code 0773 shall be assigned in conjunction with this code to reflect the non-ratable catastrophe loading. Premium generated by Code 0773 is not subject to experience rating or retrospective rating.

★ PROJECTILE, Bomb, Mine OR GRENADE LOADING & Drivers . . . . . 4776

Cap, primer, fuse, booster, or detonator assembly to be separately rated as 4779.

Code 0776 shall be assigned in conjunction with this code to reflect the non-ratable catastrophe loading. Premium generated by Code 0776 is not subject to experience rating or retrospective rating.

PROJECTILE OR SHELL MFG . . . . . 3639

Includes incidental "nosing in." Not cartridge or shell case mfg. Forging or casting of shapes or loading or testing with explosives to be separately rated.

★ SHELL CASE LOADING & Drivers . . . . . 4775

Applies to 20 mm. and over and includes assembling with loaded projectile. Projectile or primer loading to be separately rated.

Code 0775 shall be assigned in conjunction with this code to reflect the non-ratable catastrophe loading. Premium generated by Code 0775 is not subject to experience rating or retrospective rating.

★ SMOKELESS POWDER MFG—single base—& Drivers . . . . . 4774

Includes the mfg. of pyro or nitro-cotton. High explosives mfg. to be separately rated as 4773.

Code 0774 shall be assigned in conjunction with this code to reflect the non-ratable catastrophe loading. Premium generated by Code 0774 is not subject to experience rating or retrospective rating.

EXPLOSIVES DISTRIBUTORS & Drivers . . . . . 4777

Includes the preparation of blasting agents and the distribution of high explosives. Blasting operations to be separately rated as 6217. No high explosives manufacturing.

EXPRESS CO—See "TRUCKING"

EXTERMINATOR & Drivers . . . . . 9014

Includes termite control. Carpentry repair or use of poisonous gases to be separately rated.

EXTRACT MFG . . . . . 4825

Applies to dyewood, licorice, tanning, perfumery, medicinal or flavoring extract mfg. Includes distillation of essential oils.

EYELET MFG . . . . . 3270

FABRIC COATING or Impregnating NOC . . . . . 4493

Includes the coating or impregnating of fabrics with oils, varnishes, lacquers, plastics or rubber.

FACTORY COST or Office SYSTEMATIZER, Accountant or Auditor—TRAVELING . . . . . 8803

Includes insurance company premium auditors.

FARM MACHinery DEALER—ALL OPERATIONS & Drivers . . . . . 8116

Includes demonstration.

FARM MACHinery OPERATION—by contractor— & Drivers . . . . . 0050

~~FARM:~~  
For the purpose of the application of workers compensation rates, a farm is defined as any parcel(s) of land used for the purpose of agriculture, horticulture, viticulture, dairying, or stock or poultry raising, as a business or commercial venture. A division of payroll may be allowed for each

**WORKERS COMPENSATION AND EMPLOYERS LIABILITY**

Effective September 1, 1992

Continued

separate and distinct type of commercial farm operation as described by the Manual Classifications described herein, provided that separate records of payroll are maintained. In the event that the payroll records do not reveal clearly an accurate segregation in accordance with the Manual Classifications described herein, the entire payroll for the farm must be segregated on the basis of proportionate acreages.

Each classification includes all employees, other than inside domestic workers, including drivers and all normal repair and maintenance of buildings or equipment performed by the employees of the insured. Such activities as the maintenance of cows, hogs or chickens for family use; a family orchard or truck garden; and hay or grain crop raised for the purpose of maintaining work animals on the farm must be considered usual and incidental to the operation of any type of farm.

The following classifications apply to farming and agricultural operations:

|   |      |
|---|------|
| ANIMAL RAISING & Drivers                  | 0170 |
| Applies to fur bearing animals.           |      |
| BERRY or Vineyard & Drivers               | 0079 |
| CATTLE or Livestock RAISING NOC & Drivers | 0083 |
| DAIRY & Drivers                           | 0036 |
| EGG or Poultry PRODUCER & Drivers         | 0034 |
| FIELD CROPS & Drivers                     | 0037 |
| FISH HATCHERY & Drivers                   | 0113 |
| FLORIST & Drivers                         | 0035 |
| Applies to cultivating or gardening.      |      |
| GARDENING—market or truck—& Drivers       | 0008 |
| GOAT or Sheep RAISING & Drivers           | 0169 |
| LIVESTOCK or Cattle RAISING NOC & Drivers | 0083 |
| NURSERY EMPLOYEES & Drivers               | 0006 |
| Includes incidental landscape gardening.  |      |
| ORCHARD & Drivers                         | 0016 |
| POULTRY or Egg PRODUCER & Drivers         | 0034 |
| SHEEP or Goat RAISING & Drivers           | 0169 |
| VEGETABLE & Drivers                       | 0008 |
| VINEYARD or Berry & Drivers               | 0079 |
| NOC & Drivers                             | 0037 |

|  |      |
|--|------|
| FASTENER or Button MFG—METAL   | 3131 |
| FEATHER or Flower MFG—artificial   | 2534 |
| FEATHER PILLOW MFG   | 2501 |
| No mattress or box spring mfg.   |      |
| FEDERAL WAR HOUSING DISMANTLING OR WRECKING—See "WRECKING"   |      |
| FEED, Hay or Grain DEALER & LOCAL MANAGERS, Drivers  | 8215 |
| FEED MFG   | 2014 |
| Includes the preparation of cereal or compound feeds for livestock.  |      |
| * FELT or Building or Roofing Paper PREPARATION—no installation  | 4283 |
| Not applicable to asphalt or tar distillation or refining plants, which include the saturating of paper or felt as a part of their operations. Paper or felt mfg. to be separately rated.  |      |
| FELTING MFG  | 2286 |
| FENCE ERECTION—METAL   | 6400 |
| FERTILIZER MFG & Drivers   | 4583 |
| Not rendering or garbage works. Includes dry mixing plants. Codes 4583 and 2089 packing house shall not be assigned to the same risk unless the operations described by these classifications are conducted as separate and distinct businesses. |      |
| FIBER GOODS MFG  | 4263 |
| Fiberboard mfg. to be separately rated as 4239 paper mfg.  |      |
| FIELD BONDED WAREHOUSING—ALL EMPLOYEES & Clerical  | 8710 |
| No handling, moving or shipping of goods or merchandise at the field location. Includes clerical employees at such location.   |      |
| FILE MFG   | 3118 |
| FILM EXCHANGE & Clerical   | 4382 |
| Includes projecting rooms. Film exchanges located at motion picture studios to be separately rated as 4360 motion picture.   |      |
| FIRE ALARM, Telephone or Telegraph LINE CONSTRUCTION & Drivers   | 7601 |
| Code 7600 telephone or telegraph company shall not be assigned at the same job or location to which Code 7601 applies.   |      |
| FIRE ALARM INSTALLATION or REPAIR—& Drivers  | 7605 |

~~Arizona, Massachusetts and North Carolina. See also  
Code 9371~~

~~Wisconsin. See also Code 9371. This code is used for  
the erection of buildings and the use of explosives on a  
job site. The erection of buildings includes the  
erection of a single employee's residence. The  
erection of a building includes the erection of a  
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of a building includes the erection of a building.~~

"F"

Factory Built Home Erection—Wood—  
Wisconsin only ..... 5403

NOTE: Construction work performed at the job site by other  
than the erection crew to be separately rated.

Factory Built Home Mfg.—Wood—Shop work—& Drivers:  
Virginia only ..... 2805  
Wisconsin only ..... 2802

**Farm Products:**

The following farm products are listed alphabetically with the  
appropriate classification for that product.

- NOTES:
1. In Arizona: refer to the state rate pages for the  
appropriate classification.
  2. In Oregon: there are five important distinctions  
which are as follows:
    - (a) All hoeing by hand will be assigned to  
Code 0008—regardless of the product  
involved, and
    - (b) The harvesting of green table vegetables  
by knife (such as, but not limited to, broc-  
coli and cauliflower) will be assigned to  
Code 0008.
    - (c) Vegetable picking by hand and nut or fruit  
picking on the ground will be assigned to  
Code 0116.
    - (d) Berry picking by hand will be assigned to  
Code 0117.
    - (e) The hand topping of dry onions by knife  
will be assigned to Code 0008.

NOTE: Effective July 1, 1990, Code 9371 applies to the  
hand harvesting or hand topping of dry onions for Oregon  
Workers Compensation Insurance Plan policies (assigned  
risks).

3. In Minnesota, cultivation by hand exclusively,  
including hoeing and weeding, will be as-  
signed to Code 0008, regardless of crop.

| Product             | Code | State Special |
|---------------------|------|---------------|
| Alfalfa .....       | 0037 | 0006 MN, WI   |
| Animals—Fur Bearing | 0170 |               |
| Apples .....        | 0016 |               |
| Apricots .....      | 0016 |               |

| Product                                 | Code            | State Special                      |
|---|-----------------|------------------------------------|
| Asparagus .....                         | 0008            |                                    |
| Bananas .....                           | 0016            |                                    |
| Barley .....                            | 0037            | 0006 MN, WI                        |
| Beans, Dry .....                        | 0037            | 0006 MN, WI                        |
| Beans, Green .....                      | 0008            |                                    |
| Beets, Table .....                      | 0008            |                                    |
| Beets, Sugar .....                      | 0037            | 0006 MN, 0008 WI                   |
| Berries .....                           | 0079            | 0173 FL                            |
| Black Walnuts .....                     | 0016            |                                    |
| Broccoli .....                          | 0008            |                                    |
| Brussale Sprouts .....                  | 0008            |                                    |
| <del>Butter</del> .....                 | <del>0036</del> |                                    |
| Cabbage .....                           | 0008            |                                    |
| Cantaloupes .....                       | 0037            | 0006 WI, 0008 MN                   |
| Carrots .....                           | 0008            |                                    |
| Cattle .....                            | 0083            | 0006 MN, WI                        |
| Cauliflower .....                       | 0008            |                                    |
| Celery .....                            | 0008            |                                    |
| Cherries .....                          | 0016            |                                    |
| Chickens .....                          | 0034            |                                    |
| Christmas Trees .....                   | 0005            | 0042 MN, refer to<br>State Interp. |
| Clover .....                            | 0037            | 0006 MN, WI                        |
| Coffee .....                            | 0016            |                                    |
| Corn .....                              | 0037            | 0006 MN, WI,<br>0008 MA            |
| Cranberries .....                       | 0079            | 0173 FL                            |
| Cucumbers .....                         | 0008            |                                    |
| Currants .....                          | 0079            | 0173 FL                            |
| Dairy Farms .....                       | 0036            | 0006 MN, WI                        |
| Dill .....                              | 0037            | 0006 MN, WI                        |
| English Walnuts .....                   | 0016            |                                    |
| Figs .....                              | 0016            |                                    |
| Filberts .....                          | 0016            |                                    |
| Fish Hatcheries .....                   | 0113            |                                    |
| <del>Flowers, Field Growing</del> ..... | <del>0036</del> |                                    |
| Garlic .....                            | 0037            | 0006 WI, 0008<br>MN, OR            |
| Goats .....                             | 0189            | 0006 MN, WI                        |
| Grain .....                             | 0037            | 0006 MN, WI                        |
| Grapes .....                            | 0079            |                                    |
| Grass Seed .....                        | 0037            | 0006 MN, WI                        |
| Hay .....                               | 0037            | 0006 MN, WI                        |
| Hogs .....                              | 0083            | 0006 MN, WI                        |
| Holly .....                             | 0005            |                                    |
| Hops .....                              | 0079            | 0037 OR                            |
| Horseradish .....                       | 0008            |                                    |
| Horaea .....                            | 0083            | 0006 WI                            |

| <u>Product</u>    | <u>Code</u> | <u>State Special</u>     |
|-------------------|-------------|--------------------------|
| Kale              | 0008        |                          |
| Lettuce           | 0008        |                          |
| Macadamia Nuts    | 0016        |                          |
| Melons            | 0037        | 0008 MN, WI              |
| Millet            | 0037        | 0006 MN, 0008 WI         |
| Mint              | 0037        | 0008 MN, WI              |
| Mustard           | 0037        | 0006 MN, WI              |
| Nectarines        | 0016        |                          |
| Nursery Employees | 0006        |                          |
| Nuts              | 0016        |                          |
| Oats              | 0037        | 0006 MN, WI              |
| Onions, Dry       | 0037        | 0008 MN, WI              |
| Onions, Green     | 0008        |                          |
| Orchards          | 0018        |                          |
| Papaya            | 0016        |                          |
| Parsnips          | 0008        |                          |
| Peaches           | 0016        |                          |
| Pears             | 0018        |                          |
| Peas, Dry         | 0037        | 0006 MN, 0008 WI         |
| Peas, Green       | 0037        | 0008 MN, 0008 MA, WI     |
| Peppermint        | 0037        | 0006 MN, 0008 WI         |
| Peppers           | 0008        |                          |
| Pineapples        | 0037        | 0006 MN                  |
| Plums             | 0016        |                          |
| Potatoes          | 0037        | 0008 MN, 0008 MA, WI     |
| Poultry           | 0034        |                          |
| Prunes            | 0018        |                          |
| Pumpkins          | 0037        | 0008 MA, MN, WI          |
| Radishes          | 0008        |                          |
| Rhubarb           | 0008        |                          |
| Rice              | 0037        | 0006 MN, WI              |
| Rutabagas         | 0008        |                          |
| Rye               | 0037        | 0008 MN, WI              |
| Sheep             | 0169        | 0006 MN, WI              |
| Spinach           | 0008        |                          |
| Squash            | 0037        | 0008 MA, MN, WI          |
| Stock Farms       | 0083        | 0008 MN, WI              |
| Strawberries      | 0079        | 0173 FL                  |
| Sugar Beets       | 0037        | 0006 MN, 0008 WI         |
| Sugar Cane        | 0037        | 0008 MN, WI, 0030 FL, LA |

| <u>Product</u>   | <u>Code</u> | <u>State Special</u> |
|--|-------------|----------------------|
| Taro   | 0008        |                      |
| Timothy  | 0037        | 0006 MN, WI          |
| Tobacco  | 0037        | 0008 MA, WI          |
| Tomatoes   | 0008        |                      |
| Tree Farms   | 0005        |                      |
| Truck Farms  | 0008        |                      |
| Turkeys  | 0034        |                      |
| Turnips  | 0008        |                      |
| Vineyards  | 0079        |                      |
| Walnuts  | 0016        |                      |
| Watermelons  | 0037        | 0008 MA, MN, WI      |
| Wheat  | 0037        | 0006 MN, WI          |
| Feather Dyeing   |             | 2586                 |
| Feathers—washing, steaming, cleaning, and renovating   |             | 8103                 |
| Wisconsin  |             | 2585                 |
| Feed Lots—cattle—not operating farms or ranches or engaged in butchering or packing house operations—& Salespersons, Drivers |             | 8288                 |
| Feldspar Mining—& Drivers  |             | 1624                 |
| North Carolina   |             | 1164 or 1185         |
| Fence Mfg.—wire  |             | 3257                 |
| Fence Mfg.—wood, picket  |             | 2802                 |
| Fiberboard Container Mfg.  |             | 4244                 |
| Fiber Furniture Mfg.   |             | 2813                 |
| Filing Folders or Indexing Devices Mfg.  |             | 4251                 |
| Film Print Shops—developing and printing of films—All Employees & Clerical, Salespersons, Drivers                            |             | 4361                 |
| Fire Alarm Siren Mfg.  |             | 3179                 |
| Fire Alarm Systems—Installation in buildings—& Drivers—Minnesota only  |             | 5191                 |
| Fire Alarm System Companies: Massachusetts only  |             |                      |
| Office or exchange employees & Clerical  |             | 8901                 |
| All other employees & Drivers  |             | 7600                 |
| Fire Alarm Systems—Installation in buildings—& Drivers—Residential Self-Contained type—no wiring—Wisconsin only              |             | 9521                 |
| Fire Door Installation   |             | 5102                 |



**Employer's Annual Tax Return for Agricultural Employees**

► For more information, see Circular A.  
 ► For Paperwork Reduction Act Notice, see page 2.

OMB No. 1545-0035

**1994**

Your name, address, employer identification number, and calendar year of return. (If not correct, please change.)

\*\*\*\*\*3-DIGIT 530  
 KD 39-0924903 DEC94 SO9  
 KARTHAUSER & SONS INC AND  
 SUBSIDIARY  
 W147 N11100 FOND DU LAC AVE  
 GERMANTOWN WI 53022-4270

H THIS COPY IS FOR YOUR FILES

|    |  |
|----|--|
| T  |  |
| FF |  |
| FD |  |
| FP |  |
| I  |  |
| T  |  |

If address is different from prior return, check here

If you do not have to file returns in the future, check here

|    |   |   |    |
|----|---|---|----|
| 1  | Number of agricultural employees employed in the pay period that includes March 12, 1994      | 1 | 22 |
| 2  | Total wages subject to social security taxes (see instructions)                               | 2 |    |
| 3  | Social security taxes (multiply line 2 by 12.4% (.124))                                       |   |    |
| 4  | Total wages subject to Medicare taxes (see instructions)                                      | 4 |    |
| 5  | Medicare taxes (multiply line 4 by 2.9% (.029))   |   |    |
| 6  | Federal income tax withheld (see instructions)  |   | 6  |
| 7  | Total taxes (add lines 3, 5, and 6)   |   | 7  |
| 8  | Adjustment to taxes, attach Form 941c (see instructions)                                      |   | 8  |
| 9  | Total taxes as adjusted (line 7 as adjusted by line 8)  |   | 9  |
| 10 | Advance earned income credit (EIC) payments, if any (see instructions on page 4)              |   | 10 |
| 11 | Net taxes (subtract line 10 from line 9)  |   | 11 |
| 12 | Total deposits for 1994, including any overpayment from 1993, as shown in your records        |   | 12 |
| 13 | Balance due (subtract line 12 from line 11—see instructions). Pay to Internal Revenue Service |   | 13 |
| 14 | Overpayment, if line 12 is more than line 11, enter here \$                                   |   |    |

Check if you are a first-time semiweekly depositor (see Deposit Rules on page 4)  and check if to be:  Applied to next return, or  Refunded.

Record of Federal Tax Liability.—If line 11 is less than \$500, do not use this record. Pay the taxes with Form 943 or deposit them by January 31, 1995. If you are a semiweekly depositor, do not use this record. Instead, complete and attach Form 943-A, Agricultural Employer's Record of Federal Tax Liability. See Deposit

Rules on page 4. If you are a monthly depositor, enter your tax liability in the column next to the month in which the liability was incurred. The total tax liability for the year (line M) should equal net taxes (line 11).

| Deposit period ending | Tax liability for month | Deposit period ending | Tax liability for month | Deposit period ending                              | Tax liability for month |
|-----------------------|-------------------------|-----------------------|-------------------------|--|-------------------------|
| A January 31          |                         | F June 30             |                         | K November 30                                      |                         |
| B February 28         |                         | G July 31             |                         | L December 31                                      |                         |
| C March 31            |                         | H August 31           |                         | M Total liability for year (add lines A through L) |                         |
| D April 30            |                         | I September 30        |                         |  |                         |
| E May 31              |                         | J October 31          |                         |  |                         |

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature ►

Print Your Name and Title ►

Date ►

Cat. No. 11252K

000086343

DO NOT DETACH

**1994 Form 943 Payment Voucher**

(If any of the preprinted information is incorrect, make the changes on Form 943, not on the payment voucher.)

390924903 KD KART 11 2 9412 610

Document # 6

KD 39-0924903 DEC94 SO9 H  
 KARTHAUSER & SONS INC AND  
 SUBSIDIARY  
 W147 N11100 FOND DU LAC AVE  
 GERMANTOWN WI 53022-4270

- If line 13 is \$500 or more, see Voucher Instructions on page 2.
- Enter amount paid with this return \$ \_\_\_\_\_
- Make check or money order payable to the Internal Revenue Service. Do not send cash.
- Include, but do not staple, your payment with this return.

Wisconsin Dept. of Agriculture, Trade & Consumer Protection  
 Agricultural Resource Management Division  
 801 W. Badger Rd., PO Box 8911, Madison, WI 53708  
 Telephone 608/266-2295

DATE REC'D  
(OFFICE)

**Facility/Record Inspection Report**

ARI-M-PL-150 (Rev 1/93)

Inspection No. 95-404-0216-01

RELATED INSPECTION NUMBERS

43404.12.01

Aguse & P.I.

**INTRODUCTION**

Chemigation

Number of attached pages: \_\_\_\_\_

Program:  Pesticide  Bulk Storage  Fertilizer  Feed  S&P Add.  Seed  Lime  
 Focus:  Producer  Marketplace  Dist. Records  Appl. Records  Ag Use  Non Ag Use  
 Type:  Routine  Reinspection  Followup to Related Inspection

**FIRM/PERSON INSPECTED**

**FIRM PERSONNEL**

NAME Kerthausen Sons  
 ADDRESS Hwy 115  
 CITY Germania, WI ZIP 53022  
 PHONE (414) 255 7815

| NAME                           | TITLE        | INTER-VIEWED                        | DIR. CORRES.             |
|--------------------------------|--------------|-------------------------------------|--------------------------|
| <u>Bruce Kerthausen, pres.</u> |              | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <u>Bruce McDonald</u>          |              | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <u>Phil Kerthausen, owner</u>  | <u>owner</u> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**INSPECTION SUMMARY**

A. Violations noted (include description and section cited)  None noted

yes  
yes  
no  
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line is there,  
(CP 29.1521?)

Investigation also done.

B. Discussion with facility management (include enforcement action taken)

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in report  
etc.  
in

Document # 7

DATE 2-16-95

SIGNATURE Judith Pulawski

**FACILITY**

**FLORISTS'  
INSURANCE**

*Founded 1937*

*Growing With You For More Than A Century*

March 31, 1995

Ms. Linda Palmer  
Karthuaser & Sons Inc.  
W 147 N 11100 Fond Du Lac Ave.  
Germantown, WI 53022

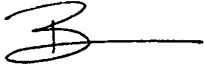
Dear Linda;

In response to your phone call on 3/30/95, I have attached a copy of the classifications issued by the National Council on Compensation, and by the Wisconsin Workers' Compensation Division/Department of Industry.

Under Wisconsin rules Florists' Mutual Insurance classes the majority of your employees under FARM: FLORIST & DRIVERS/APPLIES CULTIVATING OR GARDENING.

Please give me a call if you need any additional information concerning this topic.

Sincerely,



Brian Fergason  
Marketing Representative





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-36387  
PEN.....

*Handwritten initials and scribbles*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*gen  
tax.*

*f-n*

1 AN ACT relating to: considering vehicles used in the operation of greenhouses  
2 and other similar structures as "farm trucks".

*required for other motor trucks*

**Analysis by the Legislative Reference Bureau**

Under current law, farm trucks may be registered for ~~approximately one-seventh~~ that is roughly one-seventh to one-half the registration fee ~~paid for the same vehicle that is not a farm truck.~~ A "farm truck" is any motor truck used primarily or, for motor trucks weighing 38,000 pounds or more, exclusively for the transportation of supplies, farm equipment and products on the owner's farm or between his or her farms, for the transportation of farm products from the owner's farm to market, and for the transportation of supplies to <sup>the owner's</sup> farm. A registered farm truck may not be used in furtherance of any nonfarm occupation, trade, profession or other employment, including commuting to or from the place of such nonfarm occupation, trade, profession or employment. Current law considers greenhouses and similar structures as "farms" for purposes of farm truck registration only if the structures are used principally for the production of food and farm plants. Holton & Hunkel Greenhouse Co. v. State, 274 Wis. 337, 342 (Ct. App. 1957).

*insert A*

*classifies a*

*greenhouses or similar structures are used*

This bill ~~makes~~ motor truck used in the production of agricultural, horticultural, arboricultural, livestock, wildlife or aquatic life commodities in a greenhouse or similar structure eligible for registration as a farm truck, if the ~~farming activities are~~ directly or indirectly for the purpose of producing a commodity for market, regardless of whether the greenhouses or similar structures are used principally for the production of food and farm plants. The restrictions on the use of farm trucks apply to any greenhouse motor truck registered as a farm truck.

*as a "farm truck". This classification makes such a motor truck.*

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 340.01 (18) (b) of the statutes is amended to read:

2 340.01 (18) (b) In this subsection, the term "farmer" includes persons who are  
3 engaged in those activities specified in the definition of "operation of farm premises"  
4 contained in s. 102.04 (3), including operating greenhouses or other similar  
5 structures regardless of whether the greenhouses or other similar structures are  
6 used principally for the production of food and farm plants, provided that such  
7 activities are directly or indirectly for the purpose of producing a commodity or  
8 commodities for market, or as an accessory to such production. In this subsection,  
9 "leased" means that the farmer has entered into a written agreement with a person  
10 in the business of leasing vehicles to lease the motor truck for a period of one year  
11 or more.

History: 1971 c. 100 s. 23; 1971 c. 201, 211, 233, 277, 307; 1973 c. 86, 157, 182, 185, 272, 333, 335; 1973 c. 336 s. 79; 1975 c. 25, 120, 121, 136, 192, 199, 320, 326; 1975 c. 429 ss. 2m, 2r, 3, 4, 8, 9; 1977 c. 5; 1977 c. 29 ss. 1405 to 1410, 1654 (3); 1977 c. 30 s. 5; 1977 c. 43, 55, 57, 116, 193, 272, 288, 418; 1979 c. 36, 221; 1979 c. 333 s. 5; 1979 c. 345; 1981 c. 20, 159, 329; 1983 a. 27, 78, 124, 130, 175; 1983 a. 189 ss. 249, 329 (17m), (24); 1983 a. 223, 227, 243, 270, 457, 459; 1983 a. 512 s. 8; 1983 a. 538; 1985 a. 29, 65; 1985 a. 146 s. 8; 1985 a. 165, 187, 287; 1987 a. 259, 270, 349, 399; 1989 a. 31; 1989 a. 75 s. 1; 1989 a. 102; 1989 a. 105 ss. 13 to 30, 37, 41, 42; 1989 a. 134, 170; 1991 a. 39, 239, 269, 277, 316; 1993 a. 15, 16, 63, 159, 198, 213, 246, 260, 399, 436, 490; 1995 a. 27 s. 9145 (1); 1995 a. 36, 77, 113, 138, 225, 436, 448; 1997 a. 27, 164, 252, 277.

(END) ✓

12

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3638/3dn

PEN...i....

September 21, 1999 *new date*

*1*  
*9/21*  
*CJS*  
*+*  
*JG*

Senator Darling:

*stats.)*

Greenhouse trucks registered as commercial trucks may be reregistered as farm trucks. See s. 341.32, which, with limits, allows a transfer of unused registration credits. Unusable registration credits may not be refunded, unless specifically provided by statute. See s. 341.33, stats.

Paul E. Nilsen  
Legislative Attorney  
Phone: (608) 261-6926

Insert  
A

Any motor truck that is classified as a "farm truck"

is exempted from

motor vehicle emission limitations and emission

inspections may be operated by persons

at least 14 years of age who hold a restricted

license. ~~It is~~ <sup>from</sup> the prohibition against <sup>and</sup>

transporting children under 16 years of age in open

cargo areas of the truck when <sup>(if is)</sup> operated in

conjunction with farm operations ~~and~~

and such  
a motor  
truck

(end insert)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3638/1dn  
PEN:cjs&jlg:mrc

September 24, 1999

Senator Darling:

Greenhouse trucks registered as commercial trucks may be reregistered as farm trucks. See s. 341.32, stats., which, with limits, allows a transfer of unused registration credits. Unusable registration credits may not be refunded, unless specifically provided by statute. See s. 341.33, stats.

Paul E. Nilsen  
Legislative Attorney  
Phone: (608) 261-6926

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 09/24/1999

**To:** Senator Darling

**Relating to LRB drafting number:** LRB-3638

**Topic**

Greenhouse vehicles considered farm vehicles

**Subject(s)**

Transportation - motor vehicles

1. **JACKET** the draft for introduction \_\_\_\_\_

in the ~~Senate~~ or the **Assembly** \_\_\_\_ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney  
Telephone: (608) 261-6926