CHAPTER 98
WEIGHTS AND MEASURES

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History: 1989 a. 165.
Cross Reference: See also ch. ATCP 92, Wis. adm. code.

98.04 Municipalities. (1) Except as provided in sub. (2), a municipality having a population of more than 5,000, according to the most recent population estimate made by the department of administration under s. 16.96, shall enforce the provisions of this chapter within its jurisdiction. For this purpose, a municipality shall establish a municipal department of weights and measures. Each municipal department of weights and measures shall have such number of qualified sealers or inspectors as will ensure compliance with this chapter. Municipal sealers or inspectors shall have the same authority as sealers or inspectors of the department of agriculture, trade and consumer protection. The selection of municipal sealers or inspectors shall be from a list of applicants whose qualifications have been certified by the state or local civil service agency under the rules of the agency. The municipality shall procure and keep at all times a complete set of standards of weight and measure conforming to the state standards and shall submit the standards for certification at regular intervals as required by the department of agriculture, trade and consumer protection. The municipality shall keep a complete record of its work and annually shall file a report thereof with the department of agriculture, trade and consumer protection. The municipality may assess fees that do not exceed the actual cost of its weights and measures program.

(2) A municipality that is required to establish a department of weights and measures under sub. (1) may contract with the department of agriculture, trade, and consumer protection to enforce the provisions of this chapter within the municipality’s jurisdiction instead of establishing its own department if the department of agriculture, trade and consumer protection agrees to enter into such a contract. The department of agriculture, trade and consumer protection may charge the municipality fees sufficient to cover the department’s costs under the contract. A municipality may recover an amount not to exceed the cost of these fees by assessing fees on the persons who receive services under the weights and measures program.

same, upon demand, to any person questioning their powers, and
they are hereby empowered and authorized to make arrests, with
or without formal warrant, of any persons violating any statute
relating to weights and measures.

(2) Sealers or inspectors may enter and go into or upon any
structure or premises, and may stop any person or vehicle for the
purpose of enforcing this chapter. They shall inspect and test any
weights and measures or commodities which are sold or used
commercially as often as necessary to secure compliance with this
chapter, and may seize as evidence, or reject and mark or tag as
“rejected” those which are incorrect. A representative sample
may be used as the basis to determine whether any lot is incorrect.

(3) Weights and measures and commodities that have been
rejected may be confiscated and destroyed by a sealer or inspector
if not corrected within 30 days or such longer period as the sealer
or inspector may authorize, or if used or disposed of without the
sealer’s or inspector’s written authorization.

(4) Sealers or inspectors may seal or mark with appropriate
device such weights and measures as are found upon inspection
and test to be in conformance with this chapter.

(5) The department shall:
(a) Establish and maintain a measurement center laboratory for
the testing and calibration of weights and measures; and
(b) Fix and collect charges sufficient to cover the cost for the
testing and calibration done in the measurement center laboratory.

History: 1993 a. 16, 492.

98.06 Method of sale of commodities. (1) Commodities
in liquid form shall be sold by liquid measure and commodities not
in liquid form shall be sold by weight but liquid commodities may
be sold by weight and commodities not in liquid form may be sold
by count or measure if such methods are in general use and give
accurate information as to the quantity of commodity sold.

(2) (a) Berries and small fruits may be sold by measure only
if in containers having capacities of one-half dry pint, one dry pint
or one dry quart.

(b) If a commodity is packaged in an aerosol container, it shall
be sold by weight including the propellant.

(3) This section shall not apply to commodities sold in com-
pliance with a state or federal law which prescribes another
method of sale, or to commodities sold for immediate consump-
tion on the premises where sold.

History: 1999 a. 83.
Cross Reference: See also ch. ATCP 91, Wis. adm. code.

98.07 Declaration of quantity. (1) No commodity which is
marked, tagged or labeled, or for which a sign is displayed, with
a selling price, shall be sold unless the weight, measure or count
of the commodity is conspicuously declared on the commodity or
its tag, label or sign, but a declaration of count is not required if
the selling price is for a single unit, or a set or combination of com-
modities customarily sold to and understood by consumers as a
single unit, or if the commodity is packaged prior to sale and the
package contains 6 units or less which can be easily counted with-
out opening the package.

(2) No commodity shall be wrapped or its container made,
formed or filled so as to mislead the purchaser; nor shall the qual-
ifying term “when packed”, or the terms “jumbo”, “giant” or
“full”, or words of similar import that tend to mislead the pur-
chaser as to the amount of the commodity, be used in connection
with a declaration of quantity.

(3) With respect to commodities packaged prior to sale, the
department shall issue rules permitting reasonable variations from
declared quantity which unavoidably occur in good packaging
and distribution practices.

(4) In order to prevent consumer deception, the department
shall prescribe, by rule, standards for determining and declaring
weight, measure or count, including the conspicuousness of quan-
tity declarations.

History: 1975 c. 308.
Cross Reference: See also chs. ATCP 90, 91, and 92, Wis. adm. code.

98.08 Price refunds; price information. (1) A person
who uses an electronic scanner to record the price of a commodity
or thing and who sells the commodity or thing at a price higher
than the posted or advertised price of that commodity or thing at
least shall refund to a person who purchases the commodity or
thing the difference between the posted or advertised price of the
commodity or thing and the price charged at the time of sale.

(2) A person who sells a commodity or thing and who uses an
electronic scanner to record the price of that commodity or thing
shall display, in a conspicuous manner, a sign stating the require-
ments of sub. (1).

History: 1995 a. 319.

98.12 Sale of ice cream and similar frozen products.
Ice cream, ice milk, water ices or other frozen desserts of a similar
nature packaged prior to sale shall be sold by liquid measure. This
section does not apply if the products are packaged at time of sale
at retail or sold in quantities of less than one-half liquid pint.


98.13 Milk or cream tests; samples; patrons’ state-
ment. (1) The Babcock or other extraction tests shall be used to
determine the fat content of milk or cream purchased by or sold to
dairy plants, but the department may issue rules permitting
the use of other methods or devices for testing and determining
such milk fat content.

(2) Each sample used for testing shall be representative of the
milk or cream from which taken. Composite samples shall consist
of representative samples taken during a period not exceeding 16
consecutive days. The unused portion of tested samples shall be
retained not less than 5 days after testing to enable retesting by
the department.

(3) All purchasers of milk or cream from the producer, when
using such milk fat tests to determine the value of any milk or
cream received or bought by such purchaser, shall, when paying
for such milk or cream, include an itemized statement to each
patron showing the daily number of pounds of milk delivered, the
total amount of butterfat content or test, transportation costs, and
other charges and deductions for the period of time for which pay-
ment is made; except that the daily weights need not be shown on
such statement if weight slips are furnished daily to producers.

(4) Whenever milk is sold under an agreement, express or
implied, that the value of the milk shall be determined by its pro-
portion of butter fat, the price to be paid shall be based on a 3.5%
butter fat standard.

(5) To insure the accuracy of the milk fat tests prescribed
herein the department shall issue rules governing the collection
and care of samples, the conduct of tests and the keeping of test
records.


98.14 Standardization of Babcock pipettes. (1) All
bottles and pipettes used in measuring milk or milk products to
determine the percentage of fat in the milk or milk products shall
have clearly blown or otherwise permanently marked in the side
of the bottle or pipette the word “Sealed”, and in the side of the
pipette or the side or bottom of the bottle the name, initials or
trademark of the manufacturer and the manufacturer’s designat-
ing number, which designating number shall be different for each
manufacturer and may be used in identifying bottles. The design-
ating number shall be furnished by the department upon applica-
tion by the manufacturer and upon the filing by the manufacturer
of a bond in the sum of $1,000 with sureties to be approved by the
attorney general, conditioned upon conformance with the require-
ments of this section. A record of the bonds furnished, the desig-
nating number, and to whom furnished, shall be kept in the office of the department.

(2) Any manufacturer who sells Babcock milk, cream or butter test bottles or milk pipettes, for use in this state, that do not comply with the provisions of this section shall be subject to a penalty of $500 to be recovered by the attorney general in an action brought in the name of the people of the state against the offender's bondsmen. No dealer shall use, for the purpose of determining the percent of milk fat in milk or milk products, any bottles or pipettes that do not comply with the provisions of this section.

(3) The department shall prescribe specifications with which the glassware described in this section shall comply. The unit of graduation for all Babcock glassware shall be the true cubic centimeter or the weight of one gram of distilled water at 4 degrees centigrade.

(4) Sealers of weights and measures are not required to seal Babcock milk, cream or butter test bottles or milk pipettes marked as in this section provided, but they shall from time to time make tests of individual bottles used by the various firms in the territory over which they have jurisdiction in order to ascertain whether the above provisions are being complied with and they shall report immediately to the department violations found.


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98.145 Licensing of milk and cream testers. (1) To secure fair and accurate tests to producers and manufacturers for the determination of the basis of payment or for settlement for such milk or cream, or for the purpose of official inspection, or for the making of records of dairy production, persons making such milk fat tests shall be licensed by the department as herein provided.

(2) No person may engage as a tester of milk or cream to determine its value for payment or for the purpose of official inspection or for records of dairy production for the purposes described above unless the person holds a license issued by the department; but no such license is required of a licensed cheesemaker or buttermaker. The license shall expire biennially on October 31 of the 2nd year commencing after the date of issuance or renewal. Each application for milk tester license or renewal thereof shall be accompanied by a fee of $50. Each application shall be made upon forms provided by the department. If the department conducts a reinspection of any milk or cream tested by a person licensed under this subsection due to any violation of any federal or state law which the department determines in a regularly scheduled inspection of that measurement, the department shall charge the holder of that license the reinspection fee required under sub. (4) for that reinspection.

(3) No dairy plant shall receive any milk required to be weighed and sampled by a licensee under this section unless it has been so weighed and sampled.

(4) The department may establish by rule the amount of license or reinspection fees required under sub. (2). Unless otherwise established by department rule, a license fee under sub. (2) is $40 and a reinspection fee under sub. (2) is $40.


98.15 False testing. (1) No person shall manipulate, under-read or over-read or make any false determination by the Babcock test or any other test used for determining the value of milk or cream. No person shall make any false record or report of the results of any such test.

(2) A district attorney to whom any violation of this section is reported shall cause appropriate actions or proceedings to be instituted for the collection of a forfeiture or fine or for the enforcement of other remedies. In any enforcement action the court may, in addition to any other penalty provided, order restitution to any party injured by violation of this section. If the violator is convicted of a crime, restitution shall be in accordance with s. 973.20.


98.16 Licensing of vehicle scale operators. (1) Definitions. In this section:

(b) "Vehicle scale" means a commercial scale that is designed to weigh loaded or unloaded highway, farm or industrial vehicles, except that it does not include a scale that is operated exclusively for the collection of a forfeiture or fine or for the enforcement of other remedies.

(2) License. (a) 1. Except as provided in subd. 2., a person may not operate a vehicle scale without a license from the department. A separate license is required for each scale. A license is not transferable between persons or scales. A license expires on March 31 annually. The department shall provide a license application form for persons applying for a license. The form may require information reasonably required by the department for licensing purposes. A license application shall be accompanied by applicable fees under pars. (b) and (c).

2. Subdivision 1. does not apply to a person who operates a vehicle scale only as an employee of a person who is required to hold a license to operate the scale under this paragraph.

(b) The fee for a license under par. (a) is $60, except that the department may establish a different fee by rule.
(c) An applicant for a license under par. (a) shall pay a license fee surcharge of $200 in addition to the license fee if the department determines that within one year prior to submitting the license application the applicant operated a vehicle scale without a license as required by par. (a). Payment of the license fee surcharge does not relieve the applicant of any other civil or criminal liability for the operation of a vehicle scale without a license but shall constitute evidence of violation of a law.

(d) The department shall not issue or renew a license under par. (a) unless the applicant pays all fees required under pars. (b) and (c) as set forth in a statement issued by the department. The department shall refund a fee paid under protest if the department determines that the fee was not required to be paid under this section.

(3) RULES. The department may promulgate rules to establish license fees under sub. (2) (b) and to regulate the operation of vehicle scales. The rules may include all of the following:

(a) Standards for the construction and maintenance of vehicle scales.

(b) Requirements for testing and certification of vehicle scales.

(c) Requirements for record keeping and reporting related to the testing and certification of vehicle scales.

History: 1993 a. 16; 1997 a. 27; 1999 a. 9.

98.18 Installing and servicing weights and measures. (1) LICENSE REQUIRED. (a) Except as provided in par. (bm), no person may engage in the business of installing, servicing, testing or calibrating weights and measures without a license from the department. A license expires on December 31 annually.

(bm) Paragraph (a) does not apply to any of the following:

1. A person who installs, services, tests or calibrates weights and measures only as an employee of a person who is required under par. (a) to hold a license to perform those services.

2. An inspector or metrologist employed by this state, a county or a municipality to test or calibrate weights and measures.

(1d) LICENSE APPLICATION. An applicant for a license issued under sub. (1) (a) shall apply on a form provided by the department. The applicant shall provide on the form information that is reasonably required by the department for issuing licenses under this section. The license application shall be accompanied by the applicable fees under subs. (1h) and (1p).

(1h) LICENSE FEES. Unless the department establishes different fees by rule, the following annual license fees shall apply:

(a) If the applicant solely engages in installing, servicing, testing or calibrating weights and measures that the applicant owns, the applicant for a license under sub. (1) (a) shall pay a license fee in the amount of $100.

(b) If the applicant installs, services, tests or calibrates weights or measures for others, the applicant for a license under sub. (1) (a) shall pay all of the following:

1. A basic license fee of $200.

2. A supplementary license fee of $50 for each additional business location if the applicant operates from more than one business location.

(1p) SURCHARGE FOR OPERATING WITHOUT A LICENSE. An applicant for a license under sub. (1) (a) shall pay a license fee surcharge of $200 in addition to the license fee if the department determines that within one year before making the application the applicant violated sub. (1) (a). Payment of this surcharge does not relieve the applicant of any other civil or criminal liability that the applicant may incur because of the violation of sub. (1) (a), but does not constitute evidence of violation of a law.

(1l) LICENSE CONTINGENT ON FEE PAYMENT. The department may not issue or renew a license under sub. (1) (a) unless the applicant pays all fees required under subs. (1h) and (1p) as set forth in a statement issued by the department. The department shall refund a fee paid under protest if the department determines that the fee was not required to be paid under this section.

(2) RULES. The department may promulgate rules to establish license fees under sub. (1h) and to regulate the installation, servicing, testing and certification of weights and measures. The rules may include record-keeping and reporting requirements.

(3) PROHIBITED PRACTICES. A person who installs, services, tests or calibrates weights and measures may not do any of the following:

(a) Install or adjust a weight or measure to make the weight or measure incorrect or to cause the weight or measure to violate this chapter or rules promulgated under this chapter.

(b) Misrepresent that a weight or measure is correct.

(c) Use any test weight or measure that has not been inspected, tested and approved by the department or by a laboratory certified by the national institute of standards and technology.

History: 1993 a. 16; 1997 a. 27.

98.21 Sale of bread. (1) Except as provided in sub. (2), no person may manufacture for sale in this state, offer to sell or sell bread unless the bread is sold by weight.

(2) Subsection (1) does not apply to stale bread if the bread is conspicuously marked “stale bread” or is placed in a container conspicuously marked “stale bread” and sold as and for stale bread.


98.22 Bulk deliveries sold in terms of weight and delivered by vehicle. (1) When a commodity in bulk is delivered by vehicle to an individual purchaser and the commodity is sold in terms of weight units, the delivery shall be accompanied by a duplicate delivery ticket with the following information clearly stated in ink or by means of other indelible marking equipment:

(a) The name and address of the vendor.

(b) The name and address of the purchaser.

(c) The net weight of the delivery expressed in pounds.

(d) The gross and tare weights of the delivery if the net weight of the delivery is derived from determination of gross and tare weights.

(2) Where milk is picked up at farms, only the identity of the vendor and the net weight need be stated.

(3) One of the duplicate delivery tickets required under sub. (1) shall be retained by the vendor, and the other shall be delivered to the purchaser at the time of delivery of the commodity, or shall be surrendered, on demand to the inspector or sealer, who may retain it as evidence and issue a weight slip in lieu thereof for delivery to the purchaser. If the purchaser carries away the purchase, the vendor shall be required only to give to the purchaser at the time of sale a delivery ticket stating the number of pounds of commodity delivered to the purchaser. If the commodity is to be weighed by the purchaser, the purchaser shall furnish the vendor the duplicate delivery ticket provided for in this section.


98.225 Deliveries of certain liquid fuels. (1) In this section, “liquid fuel” means gasoline, kerosene, fuel oil, diesel fuel or alternate fuels, as defined in s. 78.39 (1).

(2) No person may sell liquid fuel by liquid measure and deliver it to a vehicle equipped with a pump and metering device unless the pump and metering device is equipped with a delivery ticket printer. Except as provided in sub. (3), the seller shall, at the time of delivery, either provide a copy of the delivery ticket printed by the delivery ticket printer to the purchaser or leave a copy at the place of delivery. The delivery ticket shall contain all of the following information:

(a) The name and address of the seller.

(b) The name and address of the purchaser.

(c) A description of the liquid fuel delivered.

(d) The meter reading showing the volume of liquid fuel delivered.

Wisconsin Statutes Archive.
98.245 Liquefied petroleum gas sales. (1) SALES EXCEPT BY UNITS OF MEASUREMENT PROHIBITED. It is unlawful to sell or offer to sell at retail any liquefied petroleum gas except by avoirdupois weight, specified in pounds; liquid measure, specified in gallons; or vapor measure, specified in cubic feet, or such other units as may be approved by the department.

(2) PACKAGES TO BEAR TARE WEIGHT. When liquefied petroleum gas is sold or offered for sale at retail by weight, in portable containers, the tare weight of the container shall be plainly and conspicuously marked on the outside of the container. Tare weight shall not be construed to include the valve protecting cap, which shall be removed when weighing. It is unlawful to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare weight as required by this section, or which packages or containers bear a false statement as to tare weight, provided packages intended to be used only once and clearly marked with the statement “not refillable” are exempt from this tare weight requirement.

(3) REFLILLING; CREDIT. When liquefied petroleum gas is sold by the package or container, either by a refilling of a container or an exchange of containers, the vendor shall give the purchaser full credit for the unused liquid remaining in a container being exchanged or refilled.

(4) CORRECTION TO TEMPERATURE OF VOLUME SOLD. (a) When liquefied petroleum gas is sold or delivered to a consumer as a liquid and by liquid measurement the volume of liquid so sold and delivered shall be corrected to a temperature of 60 degrees Fahrenheit through use of an approved volume correction factor table, or through use of a meter that is equipped with a sealed automatic compensating mechanism and that is in compliance with sub. (7). All sale tickets shall show the delivered gallons, the temperature at the time of delivery and the corrected gallonage, or shall state that temperature correction was automatically made.

(b) When liquefied petroleum gas is sold or delivered to a consumer in vapor form by vapor measurement, the volume of vapor so sold and delivered shall be corrected to a temperature of 60 degrees Fahrenheit through the use of a meter that is equipped with a sealed automatic temperature compensating mechanism. This paragraph shall apply to all meters installed for use in the vapor measurement of liquefied petroleum gas in vapor form after May 24, 1978. This paragraph does not prohibit the continued use of meters previously installed without a self-sealing automatic temperature compensating mechanism, but no such meter may be continued in use after January 1, 1986, unless brought into compliance with this paragraph. Subsection (7) does not apply to meters used to sell or deliver liquefied petroleum gas that are subject to this paragraph.

(5) SALES TICKETS TO SHOW QUANTITY SOLD. Sales tickets or invoices shall show the quantity of liquefied petroleum gas sold, expressed in pounds, or gallons as set forth in sub. (4), or cubic feet, or any other unit approved by the department. When vapor meters reading in approved units other than cubic feet are used, the invoice shall clearly indicate to the purchaser a factor to convert to cubic feet.

(6) PUMPS AND METERS. (a) No person may sell liquefied petroleum gas and deliver it by a vehicle equipped with a pump and meter unless the meter is equipped with a delivery ticket printer and is in compliance with sub. (7). Except as provided in par. (b), the seller shall, at the time of delivery, either provide a copy of the delivery ticket printed by the delivery ticket printer to the purchaser or leave a copy at the place of delivery. The delivery ticket shall contain all of the following information:

1. The name and address of the seller.

2. The name and address of the purchaser.

3. The meter reading showing the volume of liquefied petroleum gas delivered.

(b) If there is a malfunction with the delivery ticket printer, the seller shall, at the time of delivery, either provide the purchaser or leave at the place of delivery the information required under par. (a) in written form.

(7) METERS; REGISTRATION; TESTING; FEES. (a) Registration of meters. 1. The department shall promulgate rules to require owners to register meters that are used to measure amounts of liquefied petroleum gas the sale or delivery of which is subject to sub. (4) (a).

2. The owner of a meter shall pay to the department a one-time fee of $25 to register a meter under subd. 1. The owner shall pay the fee within 60 days after the effective date of the rules promulgated under subd. 1., or within 60 days after the owner acquires a meter for which a registration fee has not been paid, whichever is later.

3. If an owner of a meter fails to comply with subd. 2., the department may assess the owner a fee of not more than $250 for that meter. If the owner does not pay the fee under this subdivision within 30 days after it is assessed, the department shall increase the fee by $10 for each day thereafter until the owner of the meter complies with subd. 2.

(b) Testing of meters. 1. The owner of a meter required to be registered under par. (a) shall have the meter tested annually by a meter servicing company that is licensed by the department.

2. A meter servicing company shall file with the department a report, for each meter, containing the results of the testing under subd. 1. within 30 days after completing the testing.

3. If the department determines that a meter has not been tested within the last year, the department shall notify the owner. The owner shall have 30 days after being notified to have the meter tested.

4. If the owner fails to have the owner’s meter tested as required under subd. 3., the department may assess the owner a fee of not more than $100 for that meter.

5. If the meter servicing company fails to file a report in compliance with subd. 2. for a meter, the department may assess the meter servicing company a fee of up to $100 for each report.


98.246 Petroleum product sales. (1) In this section, “petroleum products” has the meaning given under s. 168.03.

(2) Petroleum products may not be sold from a terminal or storage facility in this state on any basis other than gross volume without correction for temperature.

History: 1983 a. 251.

98.25 Vehicle scales: annual testing. (1) The owner or operator of a scale with a weighing capacity of 5,000 pounds or more used for the commercial weighing of commodities shall cause the scales to be tested and inspected annually for accuracy by an independent scale testing or service company in accordance with specifications, tolerances, standards and procedures established by the national institute of standards and technology and the department for the testing and examination of scales, using test weights approved by the department. The annual tests and inspections shall be at the expense of the owner or operator.

(2) A scale testing or service company conducting a test under sub. (1) shall, at the time of testing and inspection, promptly furnish to the owner or operator of the scale a report showing the results of the test and inspection with an additional copy for the department. The owner and operator of a scale which is found to be inaccurate at the time of testing shall immediately withdraw the scale from further use until necessary corrections, adjustments or repairs are made and the scale is determined to be accurate by the scale testing or service company. A copy of the report prepared by the scale testing or service company shall be filed with the
department by the owner or operator of the scale within 15 days after the test and inspection has been completed. The department shall maintain a list open for public inspection of all scales tested and found to be accurate on the annual test.

(3) No person may falsify a test or determination of the accuracy of a vehicle scale tested under sub. (1) or file with the department a false report of a test of a vehicle scale under sub. (1).

(4) This section does not apply to a railway scale used exclusively for the weighing of commodities on railroad track vehicles.


Cross Reference: See also ch. ATCP 92, Wis. adm. code.

98.26 Prohibited acts; penalty; injunction. (1) A person who does any of the following acts shall forfeit not less than $100 nor more than $500 for the first offense and not less than $200 nor more than $1,000 for a subsequent offense. A person who intentionally does any of the following acts shall be fined not more than $10,000 or imprisoned not more than 9 months or both:

(a) Hinders, obstructs or impersonates a sealer or inspector.

(b) Uses or has in possession for use in buying or selling any commodity or service, or sells, any incorrect weight or measure or causes a weight or measure to be incorrect.

(c) Represents in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service.

(d) Uses or disposes of any rejected weight or measure, or commodity, or removes therefrom any official tag, seal, stamp or mark, without written authority from a sealer or inspector.

(e) Violates s. 98.15 (1).

(f) Violates any other provision of this chapter or any rules promulgated under this chapter for which no specific penalty is prescribed.

(2) Upon application of the department or a municipality, a circuit court may grant a temporary or permanent injunction restraining any person from violating any provision of this chapter.


Cross Reference: See also chs. ATCP 91 and 92, Wis. adm. code.