

1973 Senate Bill 71

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CHAPTER 12, Laws of 1973

AN ACT to renumber, amend, repeal and recreate and reenact various provisions of the statutes for the purpose of correcting errors, supplying omissions, clarifying language, correcting titles of departments and officers, correcting references, renumbering for better location and arrangement, eliminating unnecessary and obsolete provisions and reconciling conflicts. (Revisor's Correction Bill.)

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

SECTION 1. 15.02 (4) of the statutes is amended to read:

15.02 (4) INTERNAL ORGANIZATION AND ALLOCATION OF FUNCTIONS. The head of each department or independent agency shall, subject to the approval of the governor ~~or, where applicable, the coordinating council for higher education,~~ establish the internal organization of the department or independent agency and allocate and reallocate duties and functions not assigned by law to an officer or any subunit of the department or independent agency to promote economic and efficient administration and operation of the department or independent agency. The head may delegate and redelegate to any officer or employe of the department or independent agency any function vested by law in the head.

SECTION 2. 15.347 (1) of the statutes is amended to read:

15.347 (1) NATURAL BEAUTY COUNCIL. There is created in the department of natural resources a natural beauty council. The council shall consist of one senator and 2 ~~assemblymen~~ representatives to the assembly appointed as are members of standing committees in the respective houses, 4 members representing the departments of natural resources, transportation and local affairs and development and the university of Wisconsin extension appointed respectively by the heads of the departments and the board of regents of the university of Wisconsin system to serve at the pleasure of the appointing authority; and 6 citizen members appointed by the governor to serve 3-year terms so staggered that 2 citizen posts on the council shall expire each year.

SECTION 3. 15.461 (2) of the statutes is amended to read:

15.461 (2) DIVISION OF MOTOR VEHICLES. The division of motor vehicles shall have the program responsibilities specified for the division under Title XXXII, chs. 110, 194 ~~and~~, 218, and subch. II of ch. 121 ~~and s. 313.093.~~

SECTION 4. 16.086 (5) (a) 1. (intro.) and a. of the statutes are reenacted as printed in the 1971 statutes.

SECTION 5. 16.27 (1) of the statutes is amended to read:

16.27 (1) A person appointed by the governor, elected officer, judicial body or by a legislative body or committee, or by any other appointing authority when both the classified and unclassified positions are within his department, shall be granted a leave of absence without pay for the duration of his appointment and for 3 months thereafter, during which time he shall have restoration rights to his former position or equivalent position in the department in which he was last employed without loss of seniority. He shall also have reinstatement privileges for 3 years following his appointment to the unclassified service or for one year after termination of the unclassified appointment whichever is longer. Restoration rights and reinstatement privileges shall be forfeited if the reason for termination of the unclassified appointment would also be reason for discharge from his former position in the classified service.

SECTION 6. 16.37 (3) of the statutes is amended to read:

16.37 (3) Any person entitled to be certified as described in sub. (2), as having been appointed or employed in pursuance of law and of the rules pursuant thereto, and refused such certificate, may maintain an action of mandamus to compel the ~~director~~ appointing authority to issue such certificate.

SECTION 7. 16.42 of the statutes is reenacted as printed in the 1971 statutes.

SECTION 8. 38.51 (5) of the statutes is amended to read:

38.51 (5) EMPLOYEES, QUARTERS. The board shall employ a person to perform the duties of an executive secretary and such other persons under the classified service as may be necessary to carry out its purpose. The administrative functions of the board shall be in charge of the person performing the duties of the executive secretary. The board shall keep its office ~~in the department of public instruction with the board of vocational, technical and adult education.~~

SECTION 9. 45.21 of the statutes is amended to read:

45.21 Registration of certificate of discharge. Every person who has served in the armed forces of the United States at any time, and who has been honorably discharged or given a certificate of service or relieved from active service may cause to be recorded with the register of deeds of some county within the state, in a suitable book to be provided by the county for that purpose, his or her certificate of discharge or release, said certificate to be accessible only to such person, his dependents, the county veterans service officer, department of veterans affairs, or any person with written authorization from the person discharged or his dependents to see said certificate. The register of deeds so recording such certificate shall make no charge for such service, except that in counties where the register of deeds is under the fee system and not paid a fixed salary he shall be paid ~~a fee of 25 cents~~ the fee specified in s. 59.57 (1) (a), by the county, for each certificate so recorded. The record of any such certificate heretofore made is hereby legalized.

SECTION 10. 58.566 of the statutes is renumbered 46.06 (3a) and amended to read:

46.06 (3a) LEASE OF LANDS FOR RADIO RANGE STATION. The ~~state department of public welfare~~ may lease state owned lands under its control situated in section 16, town 24 north, range 18 east, Seymour township, Outagamie county, not exceeding 2 acres in extent, to the United States of America, to be used by the civil aeronautics administration for a radio range station. The terms of the lease shall be determined by the ~~state department of public welfare~~ and may grant to the lessee authority to erect navigational aids and other structures on such lands. Such lease shall not be effective unless approved by the governor in writing.

SECTION 11. 60.18 (16) of the statutes is amended to read:

60.18 (16) CONTROL OF INSECT PESTS, ETC. To appropriate money for the control of insect pests, weeds, or plant or animal diseases within the town. The town clerk shall within 10 days notify the department of agriculture at the state ~~capitol~~ capital of such appropriation.

SECTION 12. 62.08 (4) of the statutes is amended to read:

62.08 (4) The common council of any city may not more frequently than once in 2 years by a two-thirds vote of all its members at any time redistrict, readjust and change the boundaries of aldermanic districts, so that they shall be as nearly equal in population as may be, and to that end such council may create new aldermanic districts and consolidate old ones. In redistricting such ~~sites~~ cities the original numbers of the aldermanic districts in their geographic outlines shall as far as possible be retained, and the aldermanic districts so created and those the boundaries of which are changed shall be in as compact form as possible.

SECTION 13. 63.03 (1) (u) of the statutes is amended to read:

63.03 (1) (u) ~~Minors~~ Persons between the ages of 14 and 19 who perform part-time services of 20 hours per week or less under a work-creation program devised by the county.

SECTION 14. 71.08 (6) (a) (intro.) and 1, (b) and (7) of the statutes are amended to read:

71.08 (6) (a) (intro.) An executor, administrator, personal representative or trustee applying to a court having jurisdiction for a discharge of his trust and a final settlement of his accounts, before his application is granted, shall file with the department:

1. Returns of income received by the deceased, any previous guardian, executor, administrator, personal representative or trustee, during each of the years open to assessment under s. 71.11 (21), if such returns had not theretofore been filed, including a return of income for the year of death to the date of death; and

(b) Upon receipt of such returns, the department shall immediately determine the amount of taxes including interest, penalties and costs to be payable, as well as any delinquent income, withholding, sales, use and gift taxes, penalties, interest and costs due, and shall certify such amounts to the court. The court shall thereupon enter an order directing the executor, administrator, personal representative or trustee to pay the amounts found to be due by the department and take its receipt therefor. The receipt shall be evidence of the payment and shall be filed with the court before a final distribution of the estate or trust is ordered and the executor, administrator, personal representative or trustee is discharged. The filing of such receipt shall in no manner affect the obligation of the executor, administrator, personal representative or trustee to file income, sales and withholding returns covering transactions reportable during the final income year of the estate or trust and to pay income, sales, use and withholding taxes, penalties, interest and costs due as the result of such transactions.

(7) Any income, withholding, sales, use or gift taxes, penalties, interest and costs found to be due from a decedent, an estate or a trust for any of the years open to assessment under s. 71.11 (21) and any delinquent income, withholding, sales, use or gift taxes, penalties, interest and costs found to be due shall be assessed against and

paid by the executor, administrator, personal representative or trustee; any of such items found to be due after the executor, administrator, personal representative or trustee is discharged shall be assessed against and paid by the beneficiaries in the same ratio that their interest in the estate or trust bears to the total estate or trust.

SECTION 15. 76.48 (3) of the statutes is amended to read:

76.48 (3) On or before June 1 in each year, the department of revenue shall compute and assess the license fees provided for in sub. (1) and certify the amounts due to the state treasurer and file a duplicate thereof with the department of administration. The state treasurer shall forthwith notify each association of the amount of the license fees so assessed. On or before July 10 in each year, such fees shall be paid to the state treasurer. Such fees shall become delinquent if not paid when due and when delinquent shall be subject to interest at the rate of one per cent per month on the amount of license fee until paid. Such ~~penalties and~~ interest shall be collected by the state treasurer and retained by the state.

SECTION 16. 76.48 (5) of the statutes is amended to read:

76.48 (5) Additional assessments may be made, provided notice thereof is given, within 4 years of the date the annual return was filed, but if no return was filed, or if the return filed was incorrect and was filed with intent to defeat or evade the tax, an additional assessment may be made at any time upon the discovery of gross revenues by the department. Refunds may be made provided claim therefor is filed in writing with the department within 4 years of the date the annual return was filed. Refunds shall bear interest at the rate of 6% per annum and shall be certified by the department to the secretary of administration who shall audit the amounts of such overpayments and the state treasurer shall pay the amount so audited. Any refund shall be reflected in ~~the next allocation and apportionment of license fees under this section~~ payments made under ch. 79. Additional assessments shall bear interest at the rate of 6% per annum from the time they should have been paid to the date upon which they shall become delinquent if unpaid.

SECTION 17. 84.01 (17) of the statutes is amended to read:

84.01 (17) IMPROVEMENTS FOR NEXT YEAR. The commission shall annually determine, as far as possible, what improvements will be made during the succeeding year, and notify the county clerks prior to November 1, as to the improvements in their respective counties. Such notice shall also be given to the department of natural resources and to the ~~soil conservation~~ board of soil and water conservation districts.

SECTION 18. 161.41 (2r) (a) and (3) of the statutes are amended to read:

161.41 (2r) (a) It is unlawful for any person to possess a controlled substance classified in schedule I or II which is a narcotic drug unless the substance was obtained directly from, or pursuant to, a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection, upon a first conviction, may be fined not more than \$5,000 or imprisoned not more than one year or both, and for a 2nd or subsequent offense, may be fined not more than \$10,000 or imprisoned not more than 2 years or both.

(3) It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I or II which is a narcotic drug, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a misdemeanor, punishable under s. 939.61.

SECTION 19. 176.62 (2) (a) (first sentence) of the statutes is amended to read:

176.62 (2) (a) (first sentence) The court, upon the conviction of any person for owning, possessing, keeping, ~~sorting~~ storing, manufacturing, selling, distributing or transporting intoxicating liquor or fermented malt beverages in violation of this chapter or ch. 66 or 139, shall order any part or all of such intoxicating liquor, fermented malt beverages or personal property used in connection therewith, which was seized in connection with such violation, to be destroyed if for any reason it is unfit for sale.

SECTION 20. 186.05 (5m) of the statutes is renumbered 186.113 (11) and amended to read:

186.113 (11) ~~A credit union may have~~ Have deposit accounts such as Christmas, vacation, education, deferred income, pension and similar types;

SECTION 21. 186.24 (1) of the statutes is amended to read:

186.24 (1) Whenever the commissioner is of the opinion that the loaning, investing or other policies and practices of any officer, director or committeeman of any credit union have been prejudicial to the best interest of such credit union or its investors, or that such policies or practices, if put into operation or continued, will endanger the safety or solvency of said credit union or impair the interest of its investors, the commissioner may request the removal of such officer, director or committeeman. Such request shall be served on the credit union and on such officer, director or committeeman in the manner provided by law for serving a summons in a court of record, or shall be transmitted to the credit union and the officer, director or committeeman by registered mail, with return receipt requested. Such request shall specify the reasons for the removal of such officer, director or committeeman, and also shall advise such officer, director or committeeman relative to his rights to a hearing before the credit union review board as provided in this section. A copy of such request for removal shall be transmitted to each member of the credit union review board at the same time such request is being served upon the credit union and officer, director or committeeman involved. If such request for removal is not complied with within a reasonable time fixed by the commissioner, he may by order, with ~~like~~ approval of the credit union review board, remove such officer, director or committeeman, but no order for removal shall be entered until after an opportunity for a hearing before the credit union review board is given such officer, director or committeeman upon not less than 30 days' notice. An order for removal shall take effect as of the date issued.

SECTION 22. Chapter 195 (title) of the statutes is amended to read:

CHAPTER 195
PUBLIC SERVICE COMMISSION;
~~REGULATION OF RAILROADS, STREET RAILWAYS,
INTERURBAN RAILWAYS AND EXPRESS
AND TELEGRAPH COMPANIES~~

SECTION 23. 204.321 (2) (d) 1 of the statutes is amended to read:

204.321 (2) (d) 1. Each group accident and sickness policy shall provide coverage for hospital treatment ~~and [of]~~ alcoholism.

SECTION 24. 222.12 (6) of the statutes is amended to read:

222.12 (6) If any person shall die leaving in a mutual savings bank an account on which the balance due him shall not exceed \$500, and no executor of his last will and

testament or no administrator of his estate shall be appointed, the mutual savings bank may in its discretion pay the balance of his account to his widow (or if the decedent was a married woman, to her surviving husband), next of kin, funeral director or other creditor who may appear to be entitled thereto. As a condition of such payment the mutual savings bank may require proof by affidavit as to the parties in interest, the filing of proper waivers, the execution of a bond of indemnity, with sureties, by the person to whom the payment is to be made, and a proper receipt and acquittance for such payment. For any such payment made pursuant to this subsection the mutual savings bank shall not be held liable to the decedent's executor or administrator thereafter appointed, unless the payment shall have been made within one year after the decedent's death, and an action to recover the amount shall have been commenced within one year after the date of payment.

SECTION 25. Title XIX (title) of the statutes is repealed and recreated to read:

TITLE XIX
POPULOUS COUNTIES AND CITIES.

SECTION 26. 234.02 (3) of the statutes is amended to read:

234.02 (3) The authority shall elect a chairman and vice-chairman. The authority shall employ an executive director, legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation, all notwithstanding ~~ss. 16.01 to 16.29 and 16.301 to 16.32 subch. II of ch. 16, except that s. 16.35 shall apply.~~ The authority may delegate to its agents or employees any of its powers or duties.

SECTION 27. 253.06 of the statutes is amended to read:

253.06 Term of office. The term of office of every elected county judge is 6 years, and until his successor is elected and qualifies, which term commences with the first Monday in January next succeeding his election, ~~except that the judge elected for the Rock county court, branch 3, at the spring, 1966, election shall serve for a term commencing the first Monday in May 1966 and ending the first Monday in January 1972; the judge elected for the Douglas county court, branch 2, at the spring, 1965, election shall serve for a term commencing the first Monday in May 1965, and ending the first Monday in January 1971; the judge elected for the Milwaukee county court, branch 11, at the spring, 1967, election shall serve for a term beginning the first Monday in June 1967, and ending the first Monday in January 1973 and the judge elected for the Fond du Lac county court, branch 2, at the spring, 1964, election shall serve for a term beginning May 1, 1964, and ending the first Monday in January 1970.~~

SECTION 28. 256.286 (5) of the statutes is amended to read:

256.286 (5) **REINSTATEMENT UPON TERMINATION OF DISABILITY.** Any attorney suspended under this ~~rule~~ section shall be entitled to apply for reinstatement at such intervals as the court may direct in the order of suspension or any modification thereof. Such application shall be granted by the court upon a showing by clear and convincing evidence that the attorney's disability has been removed and he is fit to resume the practice of law. Upon such application, the court may take or direct such action as it deems necessary or proper including a determination whether the attorney's disability has been removed and including a direction of an examination of the attorney by such qualified medical experts as the court shall designate. In its discretion, the court may direct that the expense of such an examination shall be paid by the attorney. Where an attorney has been suspended by an order in accordance with sub. (1) and thereafter has been judicially declared to be competent, the court may dispense with further

evidence that his disability has been removed and may direct his reinstatement upon such terms as are deemed proper and advisable.

SECTION 29. 344.20 (2) (a) of the statutes is amended to read:

344.20 (2) (a) The security may be applied to the payment of judgments for damages arising out of the accident in question rendered against either operator or owner for the damages resulting from such accident in an action at law begun not later than one year after the date of the accident or not later than one year after the date of deposit of any security under s. 344.18 ~~(2) (3)~~. Any party to such action in favor of whom a judgment was rendered may move to have the court order the state treasurer to transmit to the court for application to the payment of the judgment the money or securities available for such purpose, and the court may so order. A certified copy of the order shall be served upon the state treasurer, which service shall be by mail only. Upon being so served, the state treasurer shall transmit to the clerk of the court the money or securities in the amount authorized by par. (c) or in the amount specified in the court order if less than the amount so authorized. Securities transmitted shall be valued at the same amount as when received from the division. The state treasurer shall have no further responsibility for the amount of the deposit so transmitted and the court shall determine and direct the application thereof. Any excess shall be returned by the court to the state treasurer to be held by him subject to the provisions of this chapter.

SECTION 30. 346.45 (4) of the statutes is amended to read:

346.45 (4) The school board or ~~public service commission~~ division of motor vehicles may refuse to accept the bond of any person who has been convicted of a violation of this section and may cancel any such bond theretofore issued if it believes that the safety of the public requires such action.

SECTION 31. 452.05 (3) of the statutes is amended to read:

452.05 (3) APPRENTICESHIPS. Any person who is a resident of this state and a citizen of the United States, ~~20~~ 18 years of age or over, may upon application filed in accordance with sub. (1) be indentured to a licensed resident broker in accordance with rules promulgated by the examining board. These rules shall be drawn so as to protect the public and may limit the real estate sales and brokerage activity of the apprentice. The examining board further may require a preliminary examination covering general knowledge and prescribe the character and extent of his work during his apprenticeship. The examining board may issue a temporary salesman's permit to said individual for a period of not to exceed one year upon payment of a \$15 fee. This temporary permit shall not be renewable.

SECTION 32. Title XLB (title) of the statutes is amended to read:

TITLE XLB
SECURITIES INVESTMENT REGULATION
AND BUSINESS DEVELOPMENT.

SECTION 33. 879.05 (4) of the statutes is amended to read:

879.05 (4) SERVICE BY PUBLICATION. Unless a statute provides otherwise every probate court notice required to be given by publication shall be published as a class 3 notice in a newspaper published in the county, eligible under ch. 985, as the court by order directs.

SECTION 34. 893.22 (2) of the statutes is amended to read:

893.22 (2) All actions for damages for seduction ~~or alienation of affections.~~

SECTION 35. 944.25 (11) (intro.) of the statutes is amended to read:

944.25 (11) (intro.) DEFENSES AND EXCEPTIONS. No person shall be guilty of contempt under sub. (9) or shall be subject to prosecution under this ~~subsection.~~
section:

SECTION 36. 968.04 (3) (a) 7 of the statutes is amended to read:

968.04 (3) (a) 7. The warrant shall be in substantially the following form:

STATE OF WISCONSIN,
.... County
State of Wisconsin

vs.
.... (Defendant(s))
THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER:

A complaint, copy of which is attached, having been filed with me accusing, the defendant(s) of committing the crime of contrary to sec., Stats., and I having found that probable cause exists that the crime was committed by the defendant(s).

You are, therefore, commanded to arrest the defendant(s) and bring before me, or, if I am not available, before some other judge of this county.

Dated, 19...

....(Signature)

....(Title)

SECTION 37. In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

Statute Section Column A	Old Cross Reference Column B	New Cross Reference Column C
20.370 (1) (vn)	23.09 (15)	23.09 (9)
41.02 (4)	66.20 to 66.209	66.20 to 66.26
55.02	16.105 (2) (bf)	16.086 (1) (am)
59.96 (9) (c)	66.20 to 66.209	66.20 to 66.26
71.035 (1) (g)	71.301 to 71.373	71.301 to 71.372
71.317 (3)	71.301 to 71.373	71.301 to 71.372
146.085	101.02 (2) (h)	101.01 (2) (h)
161.23 (4)	161.43 (1) (c)	161.43 (1) (a)
247.26	247.45	247.25
252.065 (intro.)	subs. (1) to (15)	subs. (1) to (16)
300.22	256.54 (5)	257.19 (5)
448.03 (2)	147.17 (1)	448.06 (1)
946.13 (6)	18.01 (2)	18.01 (4)
968.33	256.54	257.19