CHAPTER 170

STRAYS AND LOST CHATTELS

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170.01 Who may take up strays. No stray, except horses and mules, shall be taken up by any person not a resident of the town in which it is found nor unless it is found upon land owned or occupied by the person.

History: 1993 a. 482.

170.02 Finder to give notice; penalty. (1) Every finder of a stray shall, within 7 days after finding the stray, notify the owner of the stray, if known to the finder, and request the owner to pay all reasonable charges and take the stray away. If the owner is unknown to the finder, the finder shall, within 10 days after finding the stray, file a notice with the town clerk, who shall transmit a copy to the county clerk.

(2) The finder of a stray shall publish notice, if the value of the stray exceeds $50, as a class 3 notice, under ch. 985, in the county. The notice shall contain all of the following:

(a) A brief description of the stray, giving its marks, natural or artificial, as near as practicable.

(b) The name and residence of the finder, specifying the section and town.

(c) The time when the stray was taken up.

(3) If the finder neglects or refuses to publish the notice required under sub. (2), the finder of the stray shall be liable in double the amount of damages sustained by the owner of the stray. If the finder neglects or refuses for one year to publish the notice required under sub. (2), the finder of the stray shall be liable for the full value of the stray, to be recovered by an action in the name of the town. The amount recovered shall be apportioned in the same manner as tax revenues collected by the town for schools under s. 60.33 (9) (d).

History: 1993 a. 482; 1997 a. 254.

170.03 Appraisal. Every finder of a stray of the value of $10 or more, at the time of such taking up, shall within one month cause the stray to be appraised by the chairperson of the town, and a certificate of the appraisal, signed by the chairperson, shall be filed in the town clerk's office. The finder shall pay the town chairperson 50 cents for the certificate and 10 cents per mile for each mile necessarily traveled to make the same.

History: 1989 a. 56 s. 258.

170.04 Charges for keeping. The owner or person entitled to the possession of the stray at any time within one year after the notice is filed with the town clerk may have the stray restored to him or her upon proving his or her right to the stray and paying all lawful charges. If the claimant and the finder cannot agree as to the amount of the charges or upon what should be allowed for the use of the stray either party, on notice to the other, may apply to the chairperson of the town to settle the dispute, who for that purpose may examine witnesses on oath. If any amount is found due the finder, over the value of the use of the stray, the amount, with the costs, shall be a lien upon the stray and costs of the adjudication shall abide the decision of the town chairperson. If either party refuses to accept the decision of the town chairperson, action may be brought in circuit court.

History: 1977 c. 449; 1989 a. 56 s. 258.

170.05 Sale of stray. If no claimant for the stray requests its return under s. 170.04 and if the stray has not been appraised at more than $10 the finder shall become the absolute owner; but if the appraised value exceeds $10 the stray shall be sold at public auction by the sheriff or any constable of the county on the request of the finder. Notice thereof shall be given and the sale shall be conducted and the same fees allowed therefor as in case of sales under ch. 815. The finder may bid at the sale and shall at the time of sale deliver to such officer a statement in writing of the finder's charges, which shall be filed by the officer with the town treasurer; and after deducting the charges, if just and reasonable, and the costs of the sale the officer shall pay one–half of the remaining proceeds to the finder and within 10 days thereafter the other half to the treasurer of the town for its use. If the finder of the stray neglects or refuses to cause the sale to be made when required by law the finder shall pay to the town the value of the stray, to be recovered in an action by the town.

History: Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 218.

170.06 Removal of stray; neglect to give notice, etc. If any person shall, without the consent of the finder, take away any stray taken up pursuant to this chapter without first paying all the lawful charges incurred in relation to the same the person shall be liable to the finder for the value of such stray; and if any finder shall neglect to give, file or publish the notices or have the appraisal made or do any other act prescribed by this chapter the finder shall be precluded from acquiring any right of property in such stray and from receiving any charges or expenses relative thereto.

History: 1993 a. 482.

170.065 Exemption. Sections 170.01 to 170.06 do not apply to a humane officer appointed under ch. 173 or a law enforcement officer who takes custody of an animal under ch. 173 or other applicable law.

History: 1997 a. 192.

170.07 Lost chattels, notice. Except as provided in ss. 170.105 and 170.12, if a person finds $25 or more or any goods having a value of at least $25 but less than $100, and if the owner of the money or goods is unknown, the finder shall, within 5 days after finding the money or goods, give a written notice of the found money or goods to the law enforcement agency of the city, village or town in which the money or goods are found. That law enforcement agency shall post a notice of the found money or goods in 2 public places in the city, village or town.

History: 1991 a. 206; 1995 a. 263.

170.08 Notice and appraisal. Except as provided in ss. 170.105 and 170.12, the finder of lost goods having a value of $100 or more shall give a written notice of the found goods to the law enforcement agency of the city, village or town in which the goods are found within 15 days after finding the goods and cause a class 2 notice under ch. 985 of the found goods to be published in the county. If no person who is entitled to the goods appears to claim the goods, the finder shall, within 2 months after finding the goods and before using the goods to their injury, procure an

appraisal of the goods by the law enforcement agency of the finder's city, village or town. The appraisal shall be certified by the head of the law enforcement agency and filed in the office of the law enforcement agency of the city, village or town.

History: 1989 a. 56; 1991 a. 206; 1995 a. 263.

170.09 Restitution. If the owner of lost money or goods appears within 90 days after notice is given to the law enforcement agency of the city, village or town under s. 170.07 or 170.08 and makes out his or her right to the money or goods, he or she shall have restitution of the money or goods or the value of the money or goods upon his or her paying all the costs and charges on the money or goods, including a reasonable compensation to the finder for the finder's trouble.

History: 1991 a. 206; 1995 a. 263.

170.10 Disposition of found goods or money. If no owner of lost money or goods appears within 90 days after notice is given to the law enforcement agency of the city, village or town under s. 170.07 or 170.08, the finder of the money or goods shall be the owner of the lost money or goods.

History: 1991 a. 206; 1995 a. 263; 2015 a. 196.

170.105 Chattels found by public officials, employees or agents. (1) Notwithstanding ss. 170.07 and 170.08, if an official, employee or agent of the state or of a county, city, village or town finds $25 or more or any goods having a value of at least $25 while acting within the scope of his or her official duties, employment or agency, he or she shall transfer custody of the found money or goods to the agency in the city, village or town where the money or goods were found that is designated by the city, village or town governing body to receive found money or goods. That agency shall post a notice of the found money or goods in 2 public places in the city, village or town.

(2) If the owner of lost money or goods appears within 90 days after the notice is posted under sub. (1) and makes out his or her right to the found money or goods, he or she shall have restitution of the money or goods or the value of the money or goods upon paying all of the costs and charges on the money or goods. If no owner of lost money or goods appears within 90 days after the notice is posted under sub. (1), the found money or goods become the property of the state or county, city, village or town whose official, employee or agent found the lost money or goods.

History: 1995 a. 263.

170.11 Penalty for neglect. Except as provided in s. 170.12, if the finder of lost money or goods having a value of $3 or more fails to give notice of the found money or goods or otherwise to comply with the provisions of ss. 170.07 to 170.10, the finder shall be liable for the full value of the money or goods, one–half to the use of the town and the other half to the person who sues for the full value, and shall also be responsible to the owner for the money or goods.

History: 1991 a. 206.

170.12 Sunken logs on submerged state lands. (1) DEFINITIONS. In this section:

(a) "Board" means the board of commissioners of public lands.

(b) "Log" means a portion of the trunk of a felled tree which has not been further processed for any end use, including any portion of a trunk of a tree previously used in substantially its natural state as part of a dock or crib but that is no longer part of a dock, a crib or any discernible structure, or is part of the debris field of a dock or crib.

(c) "Resident of this state" means an individual who maintains a residence, as described in s. 6.10 (1), in this state, or a corporation, partnership, association or other legal entity that maintains an office in this state and in which at least 50 percent of the ownership interest is held by one or more individuals who maintain a residence, as described in s. 6.10 (1), in this state.

(2) TITLE TO SUNKEN LOGS. The state reserves to itself title and ownership of all logs resting on submerged lands owned by the state.

(3) APPLICATION TO REMOVE SUNKEN LOGS ON CERTAIN SUBMERGED LANDS. A person wishing to raise and remove logs that are resting on submerged lands owned by the state and that are located in Lake Michigan, Lake Superior, Star Lake in Vilas County, Boom Lake in Oneida County, Rib Lake in Taylor County or the Fox River shall make application to the board for a permit to do so. Unless the applicant has received a permit under this section prior to October 14, 1997, the applicant shall include with the application a performance bond in the amount of at least $10,000. The application shall do all of the following:

(a) Identify the boundaries of the location where the sunken logs will be raised.

(b) Specify the time period during which the sunken logs will be raised.

(c) Specify the methods to be used in raising the sunken logs, including any techniques with the potential to disturb lake bed material.

(d) Describe, in detail, the applicant's plans for the use and disposition of any logs raised.

(e) Certify that the applicant is a resident of this state.

(em) Include the information required under sub. (3m).

(f) Include any additional information required by the board.

(g) Be accompanied by a $500 application fee, except that no fee is required under this paragraph for an individual who is eligible for the veterans fee waiver program under s. 45.44.

(3m) SOCIAL SECURITY AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS. (a) In addition to the information required under sub. (3), the application under sub. (3) shall include all of the following:

1. If the applicant is an individual and has a social security number, the applicant's social security number.

1m. If the applicant is an individual and does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A permit issued in reliance upon a false statement submitted under this subdivision is invalid.

2. If the applicant is not an individual, the applicant's federal employer identification number.

(b) The board may not disclose any information received under par. (a) 1. or 2. to any person except as follows:

1. The board may disclose information under par. (a) 1. or 2. to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

2. The board may disclose information under par. (a) 1. or 2. to the department of children and families in accordance with a memorandum of understanding under s. 49.857.

(4) REVIEW BY OTHER AGENCIES. Upon receipt of an application under sub. (3), the board shall immediately transmit copies of the application to the department of natural resources and to the historical society for review. The department of natural resources and the historical society shall, as appropriate, within 30 days after their receipt of the application, notify the board whether any of the following applies:

(a) The proposed project appears to require a permit under s. 30.20.

(b) The proposed project appears to require a permit under s. 44.47.

(c) The proposed project may affect public rights in navigable waters. The department of natural resources shall recommend to the board requirements and conditions to be attached to the permit which shall protect those rights.

(d) The proposed project is subject to any requirements arising under federal law.

(5) RESERVATION OF VALUE. The state reserves to itself 30 percent of the stumpage value, as established under s. 77.91 (1), of any log raised pursuant to a permit issued under this section.

(6) PERMIT. Within 60 days after receipt of an application under sub. (3), the board shall either approve, modify and approve or deny the application for a permit. A permit issued under this subsection shall be effective for 5 years. A permit issued under this subsection is not transferable and shall specify all of the following:

(a) The boundaries of the location where sunken logs may be raised pursuant to the permit. The area covered by the permit shall be contiguous and may not exceed 160 acres. A permit may not cover submerged lands that are not contained within Lake Michigan, Lake Superior, Star Lake in Vilas County, Boom Lake in Oneida County, Rib Lake in Taylor County or the Fox River. No location may be covered by more than one permit under this section.

(b) That the applicant shall obtain all other permits that are required by law, and shall comply with all other requirements that are imposed by law, for raising and removing logs resting on submerged lands owned by the state.

(c) The frequency, means and procedure for accounting for and determining the appraised market value of any logs raised.

(dm) That the applicant shall implement procedures to determine whether a raised log bears an American Indian tribal mark or brand, to identify the tribal mark or brand, and to track the value realized from the sale of logs separately for logs that bear a particular tribal mark or brand.

(e) The procedure and times when the permit holder shall tender to the board, on behalf of the state, amounts due the state for its net share of the value of any logs raised. The amounts due the state for its net share of the value of logs described under par. (dm) shall be separately identified by tribal mark or brand.

(f) Any requirements and conditions necessary to protect public rights in navigable waters.

(g) Any requirements recommended under s. 44.47 (5r) (b) that the board determines should be a condition of the permit.

(7) PERMIT RENEWAL. If a permit holder wishes to renew a permit issued under this section, the permit holder shall submit a request for renewal, together with a $500 renewal fee, to the board at least 30 days before the expiration date of the permit. The board shall renew the permit for a 5–year period unless the board determines, after notice to the permit holder and an opportunity for the permit holder to be heard, that the permit holder has knowingly or willfully violated the terms, conditions or requirements of the permit; this section; s. 44.47; or rules promulgated under this section or s. 44.47. If the board determines that there are environmental or archaeological facts affecting the location specified in the permit that were unknown at the time that the original permit was granted, the board may attach additional conditions or restrictions to the permit. If the board determines that the permit holder has knowingly or willfully violated the terms, conditions or requirements of the permit or a provision under this section or s. 44.47, the board may deny the renewal or may attach conditions or restrictions to the renewal necessary to ensure compliance with the requirements of the original permit.

(8) DENIAL OF APPLICATION; RESTRICTION, SUSPENSION AND REVOCATION OF PERMITS. (a) The board may deny an application for an original or renewal permit if the applicant does any of the following:

1. Fails to comply with sub. (3).

2. Violates any of the terms, conditions or requirements of a permit for the previous year.

(b) 1. The board shall deny an application for a permit renewal if any of the following applies:

a. The applicant has failed to provide the information required under sub. (3m) (a).

b. The department of revenue has certified under s. 73.0301 that the applicant is liable for delinquent taxes under s. 73.0301. An applicant whose renewal application is denied under this subd. 1. b. is entitled to a hearing under s. 73.0301 (5) (a) but is not entitled to any other hearing under this section.

bm. The department of workforce development has certified under s. 108.227 that the applicant is liable for delinquent unemployment insurance contributions under s. 108.227. An applicant whose renewal application is denied under this subd. 1. bm. is entitled to a hearing under s. 108.227 (5) (a) but is not entitled to any other hearing under this section.

c. In the case of a permit holder who is an individual, the applicant fails to provide his or her social security number, fails to comply, after appropriate notice, with a subpoena or warrant that is issued by the department of children and families or a county child support agency under s. 59.53 (5) and that is related to paternity or child support proceedings or the applicant is delinquent in making court–ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857. An applicant whose renewal application is denied under this subd. 1. c. is entitled to a notice and hearing under s. 49.857 but is not entitled to any other hearing under this section.

2. The board shall restrict or suspend a permit issued under this section if the board finds that, in the case of a permit holder who is an individual, the permit holder fails to comply, after appropriate notice, with a subpoena or warrant that is issued by the department of children and families or a county child support agency under s. 59.53 (5) and that is related to paternity or child support proceedings or the permit holder is delinquent in making court–ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857. A permit holder whose permit is restricted or suspended under this subdivision is entitled to a notice and hearing under s. 49.857 but is not entitled to any other hearing under this section.

3. The board shall revoke a permit issued under this section if the department of revenue has certified under s. 73.0301 that the permit holder is liable for delinquent taxes under s. 73.0301. A permit holder whose permit is revoked under this subdivision for delinquent taxes is entitled to a hearing under s. 73.0301 (5) (a) but is not entitled to any other hearing under this section.

4. The board shall revoke a permit issued under this section if the department of workforce development has certified under s. 108.227 that the permit holder is liable for delinquent unemployment insurance contributions under s. 108.227. A permit holder whose permit is revoked under this subdivision for delinquent unemployment insurance contributions is entitled to a hearing under s. 108.227 (5) (a) but is not entitled to any other hearing under this section.

(8m) DUTIES OF PERMIT HOLDERS. (a) A holder of a permit issued under this section shall do all of the following:

1. At the written request of the historical society, provide directly to the historical society a representative sample of company logging marks by sawing off the ends of the logs bearing the marks and by delivering them to the historical society.

2. Allow a historical society designee to observe log recovery activities under the permit.

(b) A person may not do any of the following while engaging in log recovery activities pursuant to a permit issued under this section:

1. Remove any object, as defined in s. 44.47 (1) (f).

2. Disturb any discernible archaeological site, as defined in s. 44.47 (1) (b).

3. Disturb any crib or dock.

(9) TRANSFER OF TITLE. At such times as a permit holder tenders to the board the amounts due under the state's reservation of value, pursuant to the terms and conditions of the permit, title to any logs covered by such tender shall pass to the permit holder.

(9m) USE OF REVENUE FROM PROGRAM. The board shall credit the amounts due the state for its net share of the value of logs described under sub. (6) (dm) to the appropriation account under s. 20.507 (1) (j). For each type of tribal mark or brand, the board shall identify the American Indian tribe or band which made the tribal mark or brand and shall distribute the moneys received for the state's net share of the value of those logs to that American Indian tribe or band.

(10) FORFEITURES AND REMEDIES. (a) Any logs subject to this section which are removed in violation of this section, or in violation of a permit issued under this section, shall be returned to the lakebed as directed by the board or shall be confiscated by the board and forfeited to the state.

(b) Any person who removes for commercial gain sunken logs on submerged state lands without a permit issued under this section may be required to forfeit $500 or an amount equal to 2 times the gross value of the removed logs, whichever is greater, plus the reasonably incurred costs of investigation and prosecution.

(c) Any person who intentionally interferes with a log recovery operation for which a permit has been issued under this section is liable to the permit holder for any actual losses resulting from the interference and may be required to forfeit not less than $100 nor more than $500.

History: 1991 a. 206, 315; 1997 a. 27, 191, 237; 1999 a. 9; 2005 a. 253; 2007 a. 20; 2009 a. 365; 2011 a. 32, 209; 2013 a. 36.