107.12 History: 1851 c. 221 s. 3, 4; R. S. 1878 c. 55 s. 3; Ann. Stats. 1889 s. 1657; Stats. 1898 s. 1657; 1923 c. 291 s. 3; Stats. 1923 s. 107.12.

CHAPTER 108.

Unemployment Reserves and Compensation.

108.01 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.01; 1939 c. 186, 372; 1943 c. 181.

The unemployment compensation act is in effect a tax statute requiring deductions from pay rolls for the creation of an unemployment compensation fund. Ernst v. Industrial Comm. 246 W 205, 16 NW (2d) 867.

Wisconsin unemployment reserves and compensation act. Brandeis and Raushenbush, 7 WLR 136.

108.02 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 1, 5; Stats. 1933 s. 108.02; 1935 c. 192, 272, 446; 1937 c. 95 s. 4; 1937 c. 162, 343; 1939 c. 186, 245, 372; 1941 c. 288; 1943 c. 181; 1945 c. 354, 376; 1947 c. 527; 1949 c. 142; 1951 c. 532 s. 1 to 5; 1951 c. 545; 1953 c. 7, 433; 1953 c. 441 s. 17; 1953 c. 483; 1955 c. 301, 527, 652; 1957 c. 235 s. 2, 3, 25; 1957 c. 644, 663; 1959 c. 12, 61, 177; 1961 c. 12, 336; 1963 c. 145, 459; 1965 c. 10 ss. 1, 2, 22, 23, 27; 1965 c. 512, 530; 1969 c. 276 ss. 403, 404, 584 (1) (a), 588 (1); 1969 c. 358.

Editor's Note: An exception in sec. 108.02, Stats. 1933, 1935, 1937 and 1939, with respect to "employment as a farm laborer," was construed in Cedarburg Fox Farms, Inc. v. Industrial Comm. 241 W 604, 6 NW (2d) 687. By amendatory legislation of 1939 (ch. 372, Laws 1939), effective January 1, 1940, the term "employment in agricultural labor" was substituted for the original term and defined.

Cemetery corporations, even if nonprofit in character, are not exempted from the operation of the unemployment compensation act, cemetery corporations not being charitable corporations or corporations organized and operated exclusively for charitable purposes within the contemplation of the exemption provision, particularly in view of its legislative history. Industrial Comm. v. Woodlawn Cemetery Asso. 232 W 527, 287 NW 750.

Under 108.02 (18) and 108.09 (1) it was intended that an unemployed worker, otherwise eligible for benefits, shall be deemed eligible unless the employer in rejecting his claim asserts some valid reason because of which the employe must be considered disqualified. Boynton Cab Co. v. Giese, 237 W 237, 296 NW 630.

In an unemployment compensation proceeding involving a salesman selling stock food for a manufacturer under a contract whereby he had specific territory to work in when and as he pleased, used his own automobile and paid his own expenses, and was paid a commission on his sales, the industrial commission properly determined that the claimant was not "customarily engaged in an independently established trade or business" and that he was an "employe" of the manufacturer under the act, hence, entitled to unemployment compensation, although he may have been an "independent contractor" under common-law concepts. Moorman Mfg. Co. v. Industrial Comm. 241 W 200, 5 NW (2d) 743.

Where a dance-hall operator arranged with the leader of some one of several orchestras to furnish the music and a specified number of musicians for a dance at some specified date, and agreed on a lump sum payment to be made to the leader, and had no contract with the individual musicians, and did not fix their compensation, which ordinarily was the union wage, nor have anything to say as to selecting or discharging them nor have any control over them, they were "employes" of their leader rather than of the dance-hall operator, under the unemployment compensation act, so that the operator was not liable to contribute to the unemployment fund on their account. Maloney v. Industrial Comm. 242 W 165, 7 NW (2d) 580.

A nonprofit unincorporated association may be an "employer" within the unemployment compensation act, and where a labor union, which is a nonprofit voluntary association, pays its members out of the union treasury for services performed by them for the union, the union is an "employer" within 108.02 (4) (a) and such members are its "employes" within 108.02 (3) (a), and the remuneration so received is "wages" within 108.02 (6), so that the union is liable under the act for pay-roll contributions based on such remuneration, if the union otherwise comes within the act. International Union v. Industrial Comm. 248 W 364, 21 NW (2d) 711.

Under 108.02 (13), employes engaged in a strike or bona fide labor dispute are not performing wage-earning services for the employer. Fredricks v. Industrial Comm. 4 W (2d) 519, 91 NW (2d) 93.

A general agent of an insurance company who is employed on contract but who is subject to substantial control is an employe and hence a secretary of the agent is also an employe of the company. National G. L. Ins. Co. v. Industrial Comm. 26 W (2d) 198, 131 NW (2d) 896.

Under 108.02 (5) (f) a person hired as a teacher and qualified to teach is excluded even if not actually engaged in teaching. Gelencser v. Industrial Comm. 31 W (2d) 62, 141 NW (2d) 898.

By virtue of 108.02 (2), Stats. 1967, the terms "agricultural labor", "fur-bearing animals", "wildlife", and "farm", set forth in 108.02 (23), must be interpreted in accordance with common and approved usage. Sprague-Dawley, Inc. v. Moore, 37 W (2d) 689, 155 NW (2d) 579.

An employe of a state university is deemed to be a "teacher", excluded from unemployment compensation by 108.02 (5), Stats. 1965, if the nature of his employment is such as to fall within the statutory definition of "teachers", i.e., "persons engaged in teaching as their principal occupation". Board of Regents v. Dept. of I., L. & H. R. 40 W (2d) 529, 162 NW (2d) 650.

Where a member of a county board has been illegally employed as a quarry foreman by the county highway committee, he is not eligible for unemployment compensation. 26 Atty. Gen. 55.

Firms engaged in the construction of dams, locks, etc., in the Mississippi valley within

the state under contract with the U. S. government in pursuance of flood control are subject to ch. 108. 26 Atty. Gen. 476.

Special deputy banking commissioners in charge of liquidation of state banks and their assistants are employes of the commission and not of a bank under provisions of 220.08 (4) and (7) and 108.02 (3), (4) and (5), Stats. 1937. 27 Atty. Gen. 769.

108.03 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 1; Stats. 1933 s. 108.03; 1935 c. 192, 446; 1937 c. 343; 1939 c. 186; 1943 c. 181; 1951 c. 532; 1955 c. 527; 1969 c. 276 s. 584 (1) (a).

Where employes have been discharged, the burden is on the employer, in rejecting their claims, to assert some valid reason because of which they are disqualified, if they are to be denied benefits. Marathon E. M. Corp. v. Industrial Comm. 4 W (2d) 162, 89 NW (2d) 785.

108.04 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 2, 6; Stats. 1933 s. 108.04; 1935 c. 192, 446; 1937 c. 343; 1939 c. 186; 1941 c. 134, 142, 288; 1943 c. 181; 1945 c. 354; 1947 c. 527; 1949 c. 142; 1951 c. 532 s. 7, 8; 1953 c. 206, 433; 1955 c. 464; 1955 c. 527 s. 4 to 8; 1957 c. 235 s. 4, 5, 25; 1957 c. 644; 1959 c. 61; 1961 c. 12; 1963 c. 145; 1965 c. 10 ss. 3 to 8, 24, 25; 1969 c. 276 s. 584 (1) (a); 1969 c. 358.

1. Performance of wage-earning service.
2. Registration for work.
3. Availability for work.
4. Discharge for misconduct.
5. Voluntary termination.
6. Labor disputes.

1. Performance of Wage-Earning Service.

The right of an unemployed person to receive unemployment compensation benefits is wholly dependent on the fulfillment of the statutory prerequisite embodied in ch. 108, Stats. 1963. A prerequisite which must be met is a minimum of 14 "weeks of employment" within a preceding 52-week base period, the computation of which is prescribed by 108.04 (4). The statutory definition of "weeks of employment," in 108.02 (13), must be literally adhered to even if the result will work injustices in isolated cases, for the court is not allowed to indulge in statutory construction. Salerno v. John Oster Mfg. Co. 37 W (2d) 433, 155 NW (2d) 66.

2. Registration for Work.

The commission rule prescribing that if the employe registers for work at a designated employment office he shall be presumed willing and able to accept suitable work offered to him, although the commission may test the presumption by an investigation, is a reasonable and valid implementation of both 108.04 (2) and 108.02 (18). Neff v. Industrial Comm. 24 W (2d) 207, 128 NW (2d) 465.

3. Availability for Work.

Where an employer had wrongfully discharged certain employes during the course of a bona fide labor dispute, the employer was not the "current employer" of such employes at the time of sending them a letter requesting them to apply for work; and where such letter was not an unconditional offer of work but was merely an invitation to apply for work, with the employer reserving the option to accept or reject such application, and such letter made the restoration of the seniority rights of such employes conditional on some future unilateral action of the employer, and the plant was being picketed at the time, such employes had "good cause" for rejecting such offered work; and hence such employes were not thereby barred from unemployment compensation benefits by either 108.04 (1) (a) or (8) (a). Marathon E.M. Corp. v. Industrial Comm. 269 W 394, 69 NW (2d) 573, 70 NW (2d) 576.

4. Discharge for Misconduct.

The meaning of the term "misconduct," barring an employe's eligibility for unemployment benefits where he has been discharged by the employer for "misconduct" connected with his employment, is limited to conduct evincing such wilful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employe, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employe's duties and obligations to his employer. Conversely, mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed "misconduct." Boynton Cab Co. v. Neubeck, 237 W 249, 296 NW 636.

A finding in an unemployment compensation proceeding that a taxicab driver's violation of company rules with respect to "checking in short" did not constitute "misconduct" was correct, where the tribunal found, on sufficient evidence, that the practice of "checking in short" had been tolerated by the employer notwithstanding its regulations and bulletins to the contrary, without any specific warnings to the employe to stop the practice, and that the employe's conduct in "checking in short" did not amount to improper conduct constituting a lack of regard for his duties and obligations to his employer. A finding in an unemployment compensation proceeding that a taxicab driver's failure to conform to the standard of earnings set by the employer did not constitute "misconduct" was correct, where the tribunal found, on sufficient evidence, that the employe's failure to attain the standard set by the employer was due at most to inefficiency. Boynton Cab Co. v. Schroeder, 237 W 264, 296 NW 642.

The evidence in an unemployment compensation proceeding required the conclusion that a cabdriver, guilty of a number of violations of company rules, and involved in 6 accidents within a period of 6 months, although not discharged until after the 6th accident and not to blame for that accident, had been discharged for "misconduct" connected with his employment. Checker Cab Co. v. Industrial Comm. 242 W 429, 8 NW (2d) 286.

Under 108.04 (5), subsequent conduct by an individual who has been discharged, even if in retaliation, is immaterial on the issue of his eligibility for unemployment compensation benefits. Marathon E.M. Corp. v. Industrial Comm. 269 W 394, 69 NW (2d) 573, 70 NW (2d) 576.

The evidence, including provisions of a collective-bargaining contract against work stoppages and making employes subject to discharge for violation thereof, sustained a finding of the industrial commission that the conduct of certain employes, in either instigating or participating in a work stoppage and walkout, or both, prior to their discharge, constituted "misconduct" within the meaning of 108.04 (5), so that such employes were thereby barred from unemployment compensation benefits. Streeter v. Industrial Comm. 269 W 412, 69 NW (2d) 583.

Factory employes who attended a union meeting held away from the employer's premises during working hours, but at a time when their employment did not require them to be at work, and who did not stop work themselves or instigate work stoppage by others, were not guilty of misconduct which would constitute good cause for discharge and thereby bar them from unemployment compensation benefits. Marathon E.M. Corp. v. Industrial Comm. 4 W (2d) 162, 89 NW (2d) 785.

In order for the violation of a rule laid down by the employer to constitute "misconduct" under 108.04 (5) such rule must be a reasonable one; when such a rule relates to conduct of the employe during off-duty hours, it must bear a reasonable relationship to the employer's interests in order to be reasonable; and the reasonableness of such a rule, constituting a part of the contract of employment, must be tested as of the time of its adoption, so that, thus tested, it is a reasonable rule if a violation thereof is reasonably likely to harm the employer's business interests. Gregory v. Anderson, 14 W (2d) 130, 109 NW (2d) 675.

Where employe was absent due to illness, failure to call in as frequently as required by company rules was not misconduct under 108.04 (5), nor did this amount to a voluntary termination of employment under 108.04 (7). Milwaukee Transformer Co. v. Industrial Comm. 22 W (2d) 502, 126 NW (2d) 6.

In a proceeding on application for unemployment benefits in which the industrial commission found that the employe's conduct did not evince a wilful, wanton, or substantial disregard of the standards of behavior which the employer had a right to expect, reversal by the circuit court was erroneous where the court incorrectly applied the test of the preponderance of the credible evidence as the burden of proof necessary to sustain the findings of the commission rather than the test of whether there was credible evidence which, if unexplained, would support the findings. Liebmann Packing Co. v. Industrial Comm. 27 W (2d) 335, 134 NW (2d) 458. See also Kessler v. Industrial Comm. 27 W (2d) 398, 134 NW (2d) 412.

Where an employe produced defective work on 4 occasions in a relatively short period after repeated warnings, it was reasonable for the industrial commission to rule that she was discharged for misconduct and thus not eligible for compensation. Fitzgerald v. Globe-Union, Inc. 35 W (2d) 332, 151 NW (2d) 136.

For an employe's behavior to be misconduct warranting discharge and rendering him ineligible for compensation benefits by virtue of 108.04 (5), Stats. 1965, it must be found to be an intentional and unreasonable interference with his employer's interest. Baez v. Dept. of I., L. & H. R. 40 W (2d) 581, 162 NW (2d) 576.

Violation of off-duty regulation as grounds for denial of unemployment compensation. 1962 WLR 392.

5. Voluntary Termination.

In determining an employe's eligibility for unemployment compensation benefits the motive or cause of the employer discontinuing the work is immaterial, the question being whether the employe quit voluntarily. Rhea Mfg. Co. v. Industrial Comm. 231 W 643, 285 NW 749.

The term "compelling personal reason" means such a reason as would impel the same or similar action by an ordinary reasonable individual under the same or similar circumstances, and which requires considerations or motives which leave a claimant no reasonable alternative but to terminate the employment. An unemancipated minor employe, in quitting her job at the insistence of her parents that she accompany them to their new home in California, did so for a "compelling personal reason." Where such claimant registered for work weekly at a public employment office in California pursuant to an interstate reciprocal arrangement, she was not thereby "substantially unavailable for work" within the meaning of 108.04 (7) (c). Western Printing & Litho Co. v. Industrial Comm. 260 W 124, 50 NW (2d) 410.

An employe who was notified that he was to be transferred out of one department into another, without affecting his seniority or base rate of pay, although resulting in a present reduction in net earnings, and who refused to accept such transfer and was then advised by the employer that his refusal constituted a quitting, "left his employment voluntarily without good cause attributable to the employer," so that he was not eligible for unemployment benefits. When an employe, without good cause attributable to the employer, shows that he intends to leave his employment and indicates such intention by word or manner of action or by conduct inconsistent with the continuation of the employe-employer relationship, it must be held that the employe intended to leave and did leave his employment voluntarily. Dentici v. Industrial Comm. 264 W 181, 58 NW (2d) 717.

A provision in an employment contract that an employe had to take a job no more than 2 grades below his original job or lose seniority, but if offered a job more than 2 grades below he was only subject to layoff, did not require the payment of unemployment compensation to a man so laid off, since he will be considered to have refused a job without good cause attributable to the employer within the meaning of 108.04 (7) (a) and (b). Roberts v. Industrial Comm. 2 W (2d) 399, 86 NW (2d) 406.

An employe who stayed away from work

for 5 days without notice in violation of rules and the employer's contract with the union can be found to have voluntarily quit under 108.04 (7). Tate v. Briggs & Stratton Corp. 23 W (2d) 1, 126 NW (2d) 513.

An employe's voluntary termination of his employment for good cause attributable to his employer under 108.04 (7) (b) must be occasioned by some act or omission by the employer constituting a cause which justifies the quitting, and good cause for quitting as distinguished from discharge must involve some fault on the employer's part and must be real and substantial. Kessler v. Industrial Comm. 27 W (2d) 398, 134 NW (2d) 412.

6. Labor Disputes.

As used in the unemployment compensation act, the provision that an employe who has lost his employment because of a labor dispute shall not be eligible for benefits from such employer's account for any week in which such labor dispute is in active progress in the "establishment in which he is or was employed," the meaning of the word "establishment" is to be drawn from the whole act, and the whole act indicates that the word "establishment" was not used in the restricted sense of a definite place. The evidence warranted findings and conclusions of the industrial commission that, by reason of functional integrality, general unity and physical proximity, a body plant and a chassis and assembly plant of an automobile manufacturer, located 40 miles apart in different cities, constituted a single "establishment," and that the 2 assembly plants of an automobile manufacturer, located 10 miles apart in different cities, constituted a single "establishment," within the meaning of 108.04 (5) (a). Picketing of one of the employer's assembly plants, ordered by the local union, and based on a contention of the union and the employes that the employer should not cease the operation of such plant or remove the machinery to its other assembly plant, although technically not constituting a "strike," nevertheless constituted a "labor dispute," within the meaning of the unemployment compensation act. Spielmann v. Industrial Comm. 236 W 240, 295 NW 1.

Where an employer discharged employes who did not participate in a walkout, 108.04 (10) does not bar the payment of unemployment compensation to them, since the subsection contemplates the continuance of the employe status even though no work is being done. Marathon E.M. Corp. v. Industrial Comm. 269 W 394, 69 NW (2d) 573, 70 NW (2d) 576.

The provisions of 108.04 (10) that an employe who has left or lost employment with an employer because of a strike or other bona fide labor dispute shall not be eligible for unemployment compensation benefits for any week in which such strike or labor dispute is in active progress, does not operate to suspend or toll 108.06 (3) (a), placing a time limit on the liability of the employer's fund to pay benefits. (Marathon E.M. Corp. v. Industrial Comm. 269 W 394, explained.) Fredricks v. Industrial Comm. 4 W (2d) 519, 91 NW (2d) 93.

In 108.04 (10) the word "establishment" does not include a plant 80 miles from the plant where the strike was in process, which operated independently, although under the same ownership and control and although most of its output went to the struck plant. (Spielmann v. Ind. Comm. 236 W 240, distinguished.) Schaeffer v. Industrial Comm. 11 W (2d) 358, 105 NW (2d) 762.

Replacing striking employes with permanent employes during the progress of a strike is not in and of itself, as a matter of law, a termination of the employment status or a discharge of the striking employes, within the meaning of this section. Rice Lake Creamery Co. v. Industrial Comm. 15 W (2d) 177, 112 NW (2d) 202.

Where a collective-bargaining contract does not prohibit strikes or lockouts, an arbitration clause does not necessarily prohibit them. Where contracts with 6 employers in a city are the same, and the union strikes only one, the others can lock out their employes and all 6 are considered to be bona fide labor disputes under 108.04 (10). A. J. Sweet, Inc. v. Industrial Comm. 16 W (2d) 98, 114 NW (2d) 141, 853.

108.04 (10) does not disqualify employes laid off because of a shortage of construction material resulting from a strike with which neither the employes nor the employer had any connection. Kenneth F. Sullivan Co. v. Industrial Comm. 25 W (2d) 84, 130 NW (2d) 194.

Where some employes of one plant went on strike, non-striking employes at the same plant are barred by 108.04 (10) from receiving compensation. Cook v. Industrial Comm. 31 W (2d) 232, 142 NW (2d) 827.

108.05 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.05; 1935 c. 192; 1937 c. 95 s. 2; 1937 c. 343; 1939 c. 186, 372; 1941 c. 288; 1943 c. 181; 1945 c. 354; 1947 c. 527; 1949 c. 142; 1951 c. 532 s. 9 to 11; 1953 c. 433; 1955 c. 527 s. 9 to 12; 1957 c. 235, 418; Spl. S. 1958 c. 1; 1959 c. 61; 1961 c. 12; 1963 c. 145; 1965 c. 10; 1969 c. 276 s. 584 (1) (a); 1969 c. 358.

Accumulated vacation pay could be allotted to 2 weeks during the time employes were laid off, so that the pay was "wages" for the 2 weeks and the employes not "unemployed"; but the employer did not necessarily have the right to designate which 2 weeks were to be used. Darling v. Industrial Comm. 4 W (2d) 345, 90 NW (2d) 597.

Where following an employer's sale of its business it terminated contractual relationship with its employes pursuant to their collective-bargaining agreement, and nothing survived except to compensate each employe for severance and vacation payments—ascertainable by computation according to the contractual formulae—a notice allocating the entire amount to each employe under the agreement among an unbroken number of weeks without separating the amounts into their components (which was in excess of the weekly benefit rates for the specific weeks involved) was sufficient to meet the requirements of 108.05 (4) (b) and (5). Brink v. Industrial Comm. 27 W (2d) 531, 135 NW (2d) 326.

108.06 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 3; Stats. 1933 s. 108.06; 1935 c. 192; 1937 c. 95 s. 2; 1937 c. 343; 1939 c. 186; 1941

c. 288; 1943 c. 181; 1945 c. 354; 1947 c. 527; 1949 c. 142; 1951 c. 532; 1959 c. 61; 1961 c. 12; 1963 c. 145; 1965 c. 10 ss. 10, 11, 26; 1969 c. 276 s. 584 (1) (a).

Employes engaged in a strike or bona fide labor dispute are not entitled to unemployment compensation benefits if they are discharged by their employer during the course of the strike and they apply for benefits within 52 weeks of the date of discharge but more than 52 weeks after the date of the close of the most-recent week in which they performed wage-earning services for the employer. The running of the 52-week time limit in 108.06 (3) (a) is not tolled by the operation of any provision of 108.04 (10) since the limitation runs from the last week in which wage-earning service was performed, under 108.02 (13) defining "weeks of employment," rather than from the date of termination of the employer-employe status. Fredricks v. Industrial Comm. 4 W (2d) 519, 91 NW (2d) 93.

108.061 History: 1963 c. 145; Stats. 1963 s. 108.061; 1965 c. 10; 1969 c. 358.

108.07 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.07; 1935 c. 196; 1937 c. 343; 1939 c. 186; 1941 c. 288; 1943 c. 181; 1947 c. 527; 1951 c. 532 s. 13 to 15; 1955 c. 527; 1963 c. 145; 1969 c. 276 s. 584 (1) (a); 1969 c. 358.

108.08 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.08; 1935 c. 192; 1937 c. 343; 1939 c. 186; 1969 c. 276 s. 584 (1) (a).

108.09 History: 1935 c. 192; Stats. 1935 s. 108.09, 108.101; 1937 c. 343; Stats. 1937 s. 108.09, 108.10; 1939 c. 186; 1941 c. 288; Stats. 1941 s. 108.09; 1943 c. 181; 1945 c. 354; 1949 c. 142; 1951 c. 247, 532; 1953 c. 433; 1957 c. 235; 1959 c. 61; 1961 c. 12, 621; 1963 c. 145; 1969 c. 276 ss. 405, 584 (1) (a).

Under 108.02 (18) and 108.09 (1) where an employer rejected a discharged employe's claim for unemployment compensation on the ground that the employe had been discharged for dishonesty, and the stipulated sole question on the hearing before the appeal tribunal was whether the employe had been discharged for dishonesty, the burden of proof was on the employer to establish the matters so asserted in its rejection of the claim, in order to render the employe ineligible for benefits and defeat the claim. With respect to judicial review of orders and awards of the industrial commission the findings of fact made in an unemployment compensation proceeding must be considered conclusive if there is any credible evidence to support them. Boynton Cab Co. v. Giese, 237 W 237, 296 NW 630.

Findings of fact made by the industrial commission in an unemployment compensation case are conclusive on appeal if there is any credible evidence which, if unexplained, would support such findings. Marathon E. M. Corp. v. Industrial Comm. 4 W (2d) 162, 89 NW (2d) 785.

See note to 102.26, citing Rice Lake Creamery Co. v. Industrial Comm. 17 W (2d) 177, 115 NW (2d) 756.

The industrial commission's determination of an issue, which under the facts of the case presents a question of statutory construction, constitutes a conclusion of law and not a finding of fact and hence is not binding on appeal. Sprague-Dawley, Inc. v. Moore, 37 W (2d) 689, 155 NW (2d) 579.

On a claim for unemployment compensation, department findings that insubordination of an employe was unjustified and warranted his discharge would not be disturbed where supported by credible evidence establishing that claimant, employed in a tannery as a "jeeper" and required to transport leather between one processing point and another on either of 2 designated floors, without justification during a slack period went home after refusing to transport leather in process from one floor to another because that was not a specific requirement of his job. Baez v. Dept. of I., L. & H. R. 40 W (2d) 581, 162 NW (2d) 576.

Procedures in handling contested claims for unemployment compensation. Snyder, 22 MLR 166.

108.10 History: 1941 c. 288; Stats. 1941 s. 108.10; 1945 c. 354; 1953 c. 433; 1961 c. 12; 1969 c. 276 ss. 406, 584 (1) (a); 1969 c. 331.

108.11 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.11; 1953 c. 433.

108.12 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.12; 1941 c. 288.

108.13 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 3; Stats. 1933 s. 108.13; 1937 c. 343; 1969 c. 276 s. 584 (1) (a).

108.14 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.14; 1935 c. 192, 446; 1937 c. 95 s. 2, 3; 1937 c. 343; 1939 c. 186; 1941 c. 288; 1943 c. 181; 1945 c. 354; 1947 c. 527; 1949 c. 52; 1951 c. 532; 1953 c. 441, 631; 1955 c. 221 s. 41; 1955 c. 366; 1957 c. 235 s. 8, 9; 1959 c. 61; 1963 c. 145; 1965 c. 433 s. 121; 1967 c. 291 s. 14; 1969 c. 276 ss. 407 to 410, 584 (1) (a).

The industrial commission's interpretation for many years of 108.14 (8), by administering claims, filed under the unemployment compensation act by former Wisconsin employes outside the state, through reciprocal arrangements with other states whereby the former Wisconsin employes would report weekly for work to employment offices in such other states, is in accord with the legislative intent which prompted the original enactment of the statute, in view of the legislature's failure to make any change in the statute although having before it this history of practical administration. Western P.&L. Co. v. Industrial Comm. 260 W 124, 50 NW (2d) 410.

108.141 History: 1961 c. 12; Stats. 1961 s. 108.141; 1963 c. 145; 1965 c. 10; 1969 c. 276 s. 584 (1) (a); 1969 c. 358.

108.15 History: 1941 c. 288; Stats. 1941 s. 108.15; 1953 c. 483; 1955 c. 527; 1957 c. 235 s. 10, 11; 1959 c. 61; 1959 c. 659 s. 68, 79; 1963 c. 145; 1969 c. 276 ss. 582 (17), 584 (1) (a).

108.16 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 4, 8; Stats. 1933 s. 108.16; 1935 c. 192, 446; 1937 c. 95 s. 1, 4; 1937 c. 343; 1939 c. 186, 372; 1941 c. 288; 1943 c. 181; 1945 c. 354; 1947 c. 527; 1949 c. 142; 1951 c. 511 s. 47; 1951 c. 532 s. 17 to 19; 1953 c. 483, 540; 1955 c. 366, 527; 1957 c. 235 s. 12 to 17, 24; 1957 c. 419; 1959

c. 660 s. 53; 1961 c. 12; 1963 c. 145; 1965 c. 1, 10, 218; 1969 c. 55; 1969 c. 276 s. 584 (1) (a); 1969 c. 358.

In a case of merger of corporations, the transferee was not a "successor" under 108.16 (8) (a) where the transferring employer had not employed the required number of employes for the required period of time. Progressive Fine Art Co. v. Industrial Comm. 265 W 170, 60 NW (2d) 711.

Under 108.16 (8) (a) the words "transfer of any of the assets" were not intended to apply to a situation where the carrier had lost a customer to a competitor and sold the competitor nothing but a license which was useless to the carrier but of some small value to the competitor, and therefore the competitor was not entitled to any part of the selling carrier's unemployment reserve account. Barry Cartage v. Industrial Comm. 1 W (2d) 52, 83 NW (2d) 135.

108.161 History: 1957 c. 235; Stats. 1957 108.161; 1959 c. 572; 1963 c. 145; 1965 c. 10, 231; 1965 c. 659 s. 24 (3); 1967 c. 26; 1969 c. 276 s. 584 (1) (a); 1969 c. 335.

108.17 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 186 s. 3; Stats. 1933 s. 108.17; 1935 c. 192; 1937 c. 95 s. 3; 1941 c. 288; 1943 c. 177; 1945 c. 354; 1953 c. 433; 1965 c. 389; 1969 c. 276 ss. 411, 584 (1) (a).

108.18 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.18; 1935 c. 192, 446; 1937 c. 95 s. 4; 1937 c. 343; 1939 c. 186, 372; 1941 c. 288; 1943 c. 181; 1945 c. 354; 1947 c. 527; 1951 c. 532; 1955 c. 527 s. 19 to 22; Spl. S. 1958 c. 1; 1961 c. 12; 1963 c. 145; 1965 c. 10 ss. 18, 19, 20, 27; 1969 c. 276 s. 584 (1) (a); 1969 c. 358.

108.19 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.19; 1935 c. 192; 1943 c. 177, 181; 1955 c. 366 s. 21; 1961 c. 12; 1969 c. 276 s. 584 (1) (a).

108.20 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.20; 1935 c. 446; 1937 c. 95 s. 4; 1939 c. 186; 1947 c. 527; 1957 c. 235 s. 19, 20; 1957 c. 672; 1959 c. 61; 1961 c. 12; 1963 c. 145; 1965 c. 231; 1965 c. 433 ss. 99, 121; 1967 c. 291 s. 14; 1969 c. 276 ss. 412, 584 (1) (a).

Travel expense of members of the industrial commission in administering the unemployment compensation law is chargeable to the unemployment administration fund created by 108.20 and 20.573, Stats. 1935. 26 Atty. Gen. 154.

108.21 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.21; 1937 c. 343; 1941 c. 288; 1969 c. 276 s. 584 (1) (a).

108.22 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.22; 1937 c. 95 s. 2; 1937 c. 343; 1941 c. 288; 1945 c. 354; 1947 c. 527; 1953 c. 433; 1957 c. 235; 1969 c. 276 s. 584 (1) (a).

The claim of the industrial commission against the estate of a bankrupt for contributions is entitled to priority over the claim of the United States for income taxes on the ground that the commission is a "judgment creditor" while the United States has only a lien. U. S. v. Industrial Comm. 168 F (2d) 639.

108.23 History: Spl. S. 1931 c. 20 s. 2; 1933 c. 383 s. 4; Stats. 1933 s. 108.23; 1935 c. 192; 1937 c. 95 s. 2; 1941 c. 288; 1955 c. 366 s. 21.

Unemployment compensation payments due from a bank prior to the time it was closed and taken over by the banking commission constitute preferred claims in liquidation by the terms of 108.23, Stats. 1937. 27 Atty. Gen. 769.

108.24 History: Spl. S. 1931 c. 20 s. 2; Stats. 1933 s. 108.24; 1935 c. 192; 1937 c. 95 s. 2; 1939 c. 186; 1941 c. 288; 1957 c. 235; 1969 c. 276 s. 584 (1) (a).

108.26 History: 1935 c. 446; Stats. 1935 s. 108.28; 1937 c. 343; Stats. 1937 s. 108.26.

CHAPTER 110.

Motor Vehicles.

110.015 History: 1969 c. 322; Stats. 1969 s. 110.015.

110.06 History: 1939 c. 410; Stats. 1939 s. 110.06; 1943 c. 375 s. 45; 1943 c. 420; 1943 c. 553 s. 27; 1955 c. 10 s. 101; 1955 c. 221 s. 42; 1957 c. 260 s. 24; 1957 c. 514; 1965 c. 131, 228; 1967 c. 92 s. 22; 1969 c. 336; 1969 c. 500 s. 30 (3) (c), (d), (g), (h), (i).

The commissioner of the motor vehicle department has power to prescribe an administrative procedure for determining whether exemptions under a reciprocity agreement entered into under ch. 267, Laws 1947, shall be granted or denied. 37 Atty. Gen. 105.

110.065 History: 1957 c. 652; Stats. 1957 s. 110.065; 1969 c. 500 s. 30 (3) (g), (h).

110.07 History: 1939 c. 410; Stats. 1939 s. 110.07; 1941 c. 285; 1943 c. 229; 1949 c. 437, 628; 1953 c. 326; 1955 c. 10, 397; 1957 c. 260 s. 25; 1957 c. 652; 1957 c. 672 s. 62; 1957 c. 673; 1959 c. 682 s. 6, 7; 1961 c. 430; 1963 c. 6, 318; 1965 c. 232, 396; 1967 c. 257; 1967 c. 276 s. 39; 1967 c. 292; 1969 c. 158 s. 106; 1969 c. 336; 1969 c. 392 s. 47g; 1969 c. 500.

The state traffic officers appointed pursuant to 110.07, Stats. 1945, may be denominated as state traffic police and cars operated by them in the performance of their official duties may be identified by an insignia carrying those words. 34 Atty. Gen. 420.

The state traffic patrol has no authority to make complaints and testify in actions for violation of county or local traffic ordinances. 43 Atty. Gen. 36.

Neither the commissioner nor the director of the division of inspection and enforcement of the motor vehicle department has the power of arrest conferred on the officers of the state traffic patrol by 110.07 (1), Stats. 1953. 44 Atty. Gen. 53.

An officer making an arrest of a truck driver may not seize or hold the truck or its cargo as security for personal appearance, or as bail, or as security for payment of a fine. Seizure of a truck or cargo, or both, under special circumstances is provided by 963.04, 110.10 (11) and 110.16 (3) (b), Stats. 1955. Where, as a consequence of the arrest and detention of a truck driver, the truck and cargo will in effect be held in police custody, such consequence does not militate against the