

CHAPTER 146.

MISCELLANEOUS HEALTH PROVISIONS.

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146.01 Infant blindness. (1) For the prevention of ophthalmia neonatorum, or blindness in the new born babe, the state board of health shall, annually, cause to be prepared and put up in proper containers a one per cent solution of nitrate of silver with instructions for its use. These shall be distributed free to local health officers in quantities sufficient to enable them to, and they shall, deliver one to each physician and midwife. The attending physician or midwife shall use the said solution as directed in said instructions.

(2) In a confinement not attended by a physician or midwife, if one or both eyes of an infant becomes inflamed, swollen and red, or show an unnatural discharge, at any time within two weeks after birth, the nurse, parents, or other person in charge shall report the facts, in writing, within six hours to the local health officer who shall immediately give warning of the danger and a copy of said instructions, and shall employ at the expense of the municipality a competent physician to examine and treat the case as directed in said instructions.

(3) Any person who violates this section shall be fined not more than one hundred dollars.

146.02 [*Repealed by 1935 c. 306*]

146.03 Home manufacturing. (1) Under this section "manufacturer" shall mean the owner or lessee of any factory or contractor for such owner or lessee, "manufactured" shall mean manufactured, altered, repaired or finished, and "home" shall mean any tenement or dwelling, or a shed or other building in the rear thereof.

(2) No articles shall be manufactured for a manufacturer in a home unless he shall have secured a license from the local health officer, which shall designate the room, apartment or building and name the persons to be employed. License shall be granted only upon payment of a fee of one dollar, and when the health officer shall have satisfied himself through inspection that the place is clean and fit for the purpose and that none of the persons employed or living therein are afflicted with any communicable disease likely to be transmitted to consumers. The license shall be issued for one year. At least one re-inspection shall be made during the year, and the license revoked if reinspection discloses improper conditions. The license shall be kept on file in the principal office of the licensee.

(3) The state board of health and the industrial commission may jointly adopt and enforce rules and regulations for local health officers hereunder, and may prohibit home work upon specified articles when necessary to protect health of consumers or workers. Subsections (3), (4) and (5) of section 140.05 shall apply.

(4) Every manufacturer giving out articles or materials to be manufactured, in any home shall issue therewith a label bearing the name or place of business of the factory, written or printed legibly in English, and shall keep a register of the names and addresses of the persons to whom given, and with whom contracts to do so were made, the quantities given out and completed and the wages paid. This register may be inspected by the state health officer, a deputy state health officer, the local health officer, or a deputy of the industrial commission.

(5) Anyone who shall for himself or as manager or agent give out materials to be manufactured, in a home, for an unlicensed manufacturer or who shall employ, or contract with anyone to do such work without such license shall forfeit to the state not less than ten nor more than one hundred dollars for each offense.

146.04 Mattresses and upholstering. (1) Whoever manufactures for sale, offers for sale, sells, delivers, or has in his possession with intent to sell or deliver any mattress which is not properly branded, or labeled; or whoever uses, in whole or in part in the manufacture of mattresses, any material which has been used, or has formed a part of

any mattress, pillow or bedding used in or about public or private hospitals or on or about any person having a communicable disease; or dealing in mattresses, has a mattress in his possession for the purpose of sale, or offers it for sale, without a brand or label as herein provided, or removes, conceals or defaces the brand or label, shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned not to exceed six months, or both. The brand or label herein required shall contain, in plain print in the English language, a statement of the material used, whether they are, in whole or in part, new or secondhand, and the qualities. Such brand or label shall be a paper or cloth tag securely attached. A mattress within this section is a quilted, stuffed pad, to be used on a bed for sleeping or reclining purposes.

(2) Any person upholstering or reupholstering any article, or who manufactures for sale, offers for sale, sells or delivers, or who has in his possession with intent to sell or deliver anything containing upholstering, without a brand or label as herein provided or who removes, conceals or defaces the brand or label, shall be punished as provided in subsection (1). The brand or label shall contain, in plain print in English, a statement of the kind of materials used in the filling and in the covering, according to the grades of filling and covering used by the trade, whether they are in whole or in part new or secondhand, and the qualities, and whether, if secondhand, they have been thoroughly cleaned and disinfected. Such brand or label shall be a paper or cloth tag securely attached.

(3) If the industrial commission believes this section is being or has been violated, it shall advise the attorney-general, giving the grounds of its belief; and the attorney-general or, under his direction, the district attorney, shall forthwith institute proceedings for enforcement and punishment.

Note: Under (2) special tag, specifying piece of upholstering as well as davenport filling material, is required on each movable or chair. 27 Atty. Gen. 448.

146.05 Public places. The owner and occupant and everyone in charge of a public building, as defined by section 101.01, shall keep the same clean and sanitary.

146.06 Calcimining and paper hanging. Before repapering or recalcimining any part of a wall or ceiling in any hotel or other public place anyone engaged in the business, shall remove all old paper or calcimine and thoroughly cleanse the surface. Violation shall be fined not less than five nor more than twenty-five dollars for each offense.

146.07 Drinking cups. (1) If the owner or manager shall furnish, or permit the use of a common drinking cup in a railroad train or station, state or other public building, street, public park, educational institution, hotel or lodging house, theater, department store, barber shop, or other places where it is inimical to health, and the state board of health so finds and orders, he shall be fined not less than ten nor more than fifty dollars.

(2) No railroad car in which any passenger is permitted to ride for more than ten miles of continuous passage in one general direction shall be operated unless there is provided for every passenger therein, at all times during such operation, opportunity to obtain free of charge a paper drinking cup not theretofore used by any person. Such drinking cups shall be kept in a clean, conspicuous and convenient place at or near the drinking fountain in each such car. Any owner or manager or person in charge who shall fail to comply herewith shall forfeit not less than twenty-five nor more than one hundred dollars for every day or part of day of such failure, to be recovered in an action to be brought by the attorney-general in the name of the state of Wisconsin. The provisions of this section shall be enforced by the public service commission.

146.08 Spitting; cuspidors; flasks. (1) Spitting upon the sidewalk or crosswalk of any public place, or upon the floor of any tenement house hall used in common, hotel or lodging house hall or office used in common, factory, any building used by the public, railroad car or street car, or upon the station platform of a common carrier, is forbidden.

(2) The owner or manager of any such building, factory, car, or station platform shall keep posted an adequate number of notices hereof.

(3) The owner or manager of any such place, or of smoking cars or compartments shall provide adequate cuspidors, and provide for their cleansing and disinfection at least once a day.

(4) When ordered by the local health board, the owner, occupant or person in charge of any public or quasi public building shall furnish and efficiently place cuspidors, and thoroughly cleanse and disinfect them daily, when the building is in ordinary use. An efficient number and type of cuspidors and system of cleansing and disinfecting may be prescribed by the board.

(5) Violation of the foregoing provisions of this section shall be fined not more than one hundred dollars or imprisoned not more than six months, or both.

(6) The provisions and penalty of subsection (3) of section 143.06 shall apply to any person with a disease whose infecting agent is in the sputum.

146.085 Toilets, penalty for locking. If the owner or manager of any public building, other than licensed hotels and resorts, as defined in subsection (12) of section 101.01, shall keep more than fifty per centum of the toilet compartments of any public toilet room locked, he shall be fined not less than ten nor more than fifty dollars. It shall be the duty of the state board of health, the industrial commission and the public service commission to enforce the provisions of this section within their respective jurisdictions. [1933 c. 54]

146.09 Sweeping. If the owner or manager shall sweep, or permit the sweeping, except when vacuum cleaners or properly filled reservoir dustless brushes are used, of floors in a railroad station, passenger car, state or public building, educational institution, hotel, or department store, without the floor being first sprinkled with water, moist sawdust, or other substance so as to prevent the raising of dust, he shall be fined not less than ten nor more than fifty dollars.

146.10 Smoke. The council of any city or the board of any village may regulate or prohibit the emission of dense smoke into the open air within its limits and one mile therefrom.

146.11 Slaughterhouses. (1) **DEFINITIONS.** In this section "slaughterhouse" means a place where cattle, swine, sheep, goats or horses are killed or dressed for human consumption, except the following: slaughterhouses under federal inspection unless included in the context, and occasional killing by individuals for their own use; "board" means the state board of health. The jurisdiction of the board does not include premises or parts of premises used exclusively for the storage or processing of meat or other food or sale of the same at wholesale or retail and regulated or inspected by the department of agriculture.

(1a) **POULTRY EXCEPTED.** As used in this section the terms "slaughterhouse" or "business of slaughtering" shall not be deemed to mean or include a place where only poultry is slaughtered or the slaughtering of poultry only.

(2) **LICENSES; APPLICATIONS; FEES; RENEWALS.** (a) No person shall erect or maintain a slaughterhouse unless the same shall first be licensed by the board. Applications for licenses shall be made on forms provided by the board and the board may cause the place to be inspected before granting the first license. Licenses shall be renewed annually on July 1 and the annual fee shall be \$10. Application for renewal shall be filed on or before June 1 and if filed after that date a penalty of \$5 shall be charged.

(b) In case of transfer of ownership of slaughterhouse property and business, the new owner shall make application to the state board of health on forms provided by it for a license, and said application shall be accompanied by a fee of \$10, and in such case there shall be no prorating of the license fee.

(3) **LOCATION.** No person shall erect or maintain any slaughterhouse or conduct the business of slaughtering, upon the bank of a watercourse, or put a carcass or offal into a watercourse nor upon the banks of a watercourse flowing through any city, village or organized town of 200 or more inhabitants. Violation of this subsection shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment not exceeding 6 months. The board shall cause immediate removal of a building or business violating this section and shall refuse to license any such building.

(4) **INSPECTION AND SUPERVISION.** Slaughterhouses shall be inspected and supervised, as to location, construction and operation, by the board and the board shall cause each such slaughterhouse to be inspected as often as necessary. In cities of the first class, such slaughterhouses may be located only on sites approved by the local health officer, the inspector of buildings and the common council. The local health officer, upon complaint or upon the request of the board, shall make such inspection of slaughterhouses as may be necessary. Violation of the rules and regulations of the board shall be promptly reported by the local health officer. The board may inspect slaughterhouses under federal inspection, and shall enforce state law as to all slaughterhouses including those under federal inspection, and make such order as may be necessary to correct insanitary conditions. Each order shall specify the time within which it shall be complied with and shall be served in person or by registered mail.

(5) **APPEAL FROM SPECIAL ORDERS.** The owner, operator or person in charge may appeal in writing to the board from the order within 10 days after receipt of notice thereof. Testimony shall be taken and arguments heard by a member or employe of the board as soon as practicable and transcribed and sent to each member thereof for study before final action on such appeal. The determination of the board may be reviewed in the circuit court for Dane county upon writ of certiorari issued within 30 days after written notice of such determination is mailed to the party's last known address. The board or any party aggrieved may appeal to the supreme court within 30 days after notice of entry of judgment.

(6) **RULES AND REGULATIONS.** The board shall promulgate rules and regulations for

location and operation of slaughterhouses licensed under this section and slaughterhouses under federal inspection, governing construction, sanitary conditions and disposal of sewage, offal, vapors, odors and gases for the purposes of insuring the purity of the meat products and preventing the creation of a nuisance, and may by general rule or special order promulgated as provided in subsection (4) forbid the accumulation of animals for slaughtering in populated or business areas whenever the same may constitute a nuisance or unreasonably interfere with the comfort or convenience of neighboring occupants.

(7) **REVOCATION AND SUSPENSION OF LICENSES.** The board may on 10 days' notice in writing revoke or suspend any license issued hereunder or refuse to renew the same for violation of this section or of any rule or regulation of the board. The notice shall specify in writing the charges relied on and the hearing, disposition and court review shall be as prescribed in subsection (5). Whenever an inspection by the board shall reveal that conditions in any slaughterhouse constitute a menace to the public health, the state health officer may by order summarily suspend the license thereof until such conditions are corrected, subject to review by the board and the courts as provided in subsection (5), but the enforcement of such order shall not be restrained by any court pending final action thereon.

(8) **PENALTIES.** Anyone who shall prevent or attempt to prevent an authorized official from entering at any time any slaughterhouse, including those under federal inspection, or its premises for inspection, or who shall fail to comply with any order or the rules of the state board of health, or who shall violate this section except subsection (3) shall be fined not less than \$10 nor more than \$500, or imprisoned not less than 5 days nor more than 6 months. [1937 c. 114; 1943 c. 385, 481; 1943 c. 553 s. 28]

Note: Under this section state board of health is not charged with jurisdiction over location of co-operative slaughterhouse in city having full-time health officer. 26 Atty Gen. 147.

Place where chickens are killed in large numbers and prepared for freezing is a slaughterhouse or place where the business of slaughtering is conducted and subject to regulation by the state board of health. 28 Atty. Gen. 566.

This section is not restricted to places where business of slaughtering animals for human consumption is carried on but ap-

plies also to slaughtering of animals for preparation of animal foods, such as mink, fox and dog foods. 30 Atty. Gen. 36.

146.11, Stats. 1941, has no application to building where animals are not killed but carcasses are dismembered for use as animal food, since term "slaughterhouse" implies killing of animals. 31 Atty. Gen. 302.

146.11, Stats. 1941, does not apply to slaughterhouse erected by county at county home and asylum for sole use of said institution, although it may not be so operated as to result in nuisance. 32 Atty. Gen. 73.

146.12 Rendering plants. (1) **SCOPE AND DEFINITION.** (a) A dead animal within the meaning of this section is any dead animal carcass not slaughtered for food or if slaughtered, becomes unsuitable for food. This section shall not apply to the disposal of the bodies of animals slaughtered for human consumption, nor to the disposal and transportation of dead animals by a packer of meat products operating under the supervision of the United States department of agriculture.

(b) This section shall not apply to the operator of a fur farm who collects carcasses only for food for his fur-bearing animals. Such carcasses and all parts thereof so collected shall be completely covered by a tarpaulin or canvas unless transported in a closed truck or tank. Trucks used for such transportation shall be leak-proof to prevent the spillage or dripping of liquid waste. No such animals nor any part thereof so collected shall be resold except to a licensed renderer.

(2) **DISPOSAL OF DEAD ANIMALS; LICENSE.** No person shall engage in the business of collecting and disposing of the bodies of dead animals or parts thereof, not slaughtered for human consumption, without first obtaining a license for such purpose from the state board of health, hereinafter referred to as the board.

(3) **DISPOSAL OF DEAD ANIMALS.** Any person who receives from any other person the body of any dead animal for the purpose of obtaining the hide, skin, grease, meat, bones, or parts thereof from such animal unless in a finished form commonly known as meat scraps, in any way whatsoever, is deemed to be engaged in the business of disposing and rendering of the bodies of dead animals or parts thereof.

(4) **LOCATION.** No person after the effective date of this section shall erect a rendering plant within one-eighth mile of a dwelling, business building or public highway, but no plant need be discontinued because a highway is relocated to come closer than one-eighth mile of any such then existing plant.

(5) **APPLICATION FOR LICENSE; FEE.** (a) Application for such license shall be made to the state board of health on forms provided by it. The application shall be accompanied by a fee of twenty-five dollars.

(b) On receipt of such application, the board shall cause the building in which the applicant proposes to conduct such business to be inspected. If the inspector finds that said building complies with the requirements of this section and with the rules of the

board, and that the applicant is a responsible and suitable person, he shall so certify in writing to such specific findings and forward the same to the board.

(c) On the receipt of the said certified findings and on receipt of an additional payment of \$100, the board shall issue a license to the applicant for one license year, commencing July 1, but no approved plant shall pay an annual application fee after the first inspection fee. Such license is not transferable either from person to person or from place to place.

(d) If the inspector finds that the applicant's building does not comply with the requirements of this section or with the rules of the board, he shall notify the applicant wherein the same fails to so comply. If within a reasonable time to be fixed by the board, but not more than ninety days thereafter, the specified defects are remedied, the board shall make a second inspection and proceed therewith as in the case of an original inspection. Only two inspections need be made under one application.

(e) In case such applicant is refused a license, the fee paid by him shall not be refunded.

(f) In case of transfer of ownership of rendering plant property and business, the new owner shall make application to the state board of health on forms provided by it for a license, and said application shall be accompanied by a fee of twenty-five dollars, and in such case there shall be no prorating of the license fee.

(6) RENEWAL OF LICENSE. An original license shall be renewed for each subsequent license year upon the payment of \$100 if the licensee, in the opinion of the board, remains responsible and suitable to carry on the business, and the place of business continues to comply with this section and the rules of the board.

(7) DISPOSAL PLANTS; SPECIFICATIONS. After the effective date of this section, each new place and additions to existing plants for the carrying on of said business shall be constructed of brick, stone, concrete block or concrete throughout to the satisfaction of the board. Dissecting floors shall be constructed of such material and in such manner as shall meet the approval of the state board of health. Buildings used for storage of finished products may have wooden floors. All disposal plant buildings shall be provided with sewerage facilities and floor drains and be thoroughly sanitary.

(8) MANNER AND TIME OF DISPOSITION. The following requirements shall be observed in the disposal of such dead animals or parts thereof. All cooking shall be done in closed steel vessels by the dry-rendering process, and the board shall make rules regulating the equipment and operation of such plant, and for the disposal of vapors, odors, gases, sewerage and waste matters so as to prevent the creation of a nuisance. All dead matter shall be disposed of within twenty-four hours after it is deposited in the plant. All skinning and dismembering of bodies shall be done within such building.

(9) RULES. The board shall make rules for the carrying on and conducting of such business, but said rules shall not be less stringent than the provisions of this section, and all persons engaging in such business shall comply with the rules.

(10) ANNUAL INSPECTION; REVOCATION OF LICENSE. Each place licensed under this section shall be inspected at least once each year, and as often as the board deems necessary to assure that the licensee conducts his business in conformity with this section and the rules of the board. If a licensee fails to obey any of the provisions of this section or any of the board's rules, the board may suspend or revoke the license held by such licensee, subject to review as hereinafter provided.

(11) TRANSPORTATION OF DEAD ANIMALS. (a) No person other than a licensee or his employes may haul and transport the carcasses of dead animals that have died or been accidentally killed, except as otherwise provided by section 95.50. Each wagon, truck, trailer attachment or vehicle employed in the transportation of dead animals or carcasses or parts thereof must carry a card issued by the board, showing the delivery point of the plant and the renderer's license number or permit number of the plant and card disclosing the rightful owner of the truck or vehicle. No truck stations shall be allowed for unloading or dissecting of dead animals and no reloading of parts of the carcasses to be delivered to a rendering plant shall be permitted, except that stations now existing, or such as may be permitted by the board, owned and operated by a renderer, constructed of concrete, stone, brick, concrete blocks, with sewerage facilities and water may continue to operate under rules of the state board of health. No animals shall be dissected at such existing stations, but the station shall be used only for reloading an entire carcass or carcasses from one truck to another for delivery to the rendering plant.

(b) The transportation of dead animals or parts thereof, raw or unrendered, except green or salted hides, shall not be allowed into other states, except by reciprocal agreement with adjoining states and under rules of the board. It shall be unlawful to transport dead, dissected dead animals or entrails of dead animals on the public highways in this state, except by a renderer licensed under this section and as otherwise provided by section 95.50. No stockyards company not operating a rendering plant

shall have dead animals transported from its premises except by a licensed renderer or upon trucks approved by the state board of health and owned and operated by the stockyards company to a licensed renderer. Local health officers or the state board of health may require any renderer to remove carcasses from stockyards in case of emergencies, strikes or other causes, without charge to the owner or the operator of the stockyards company. Healthy animals, freshly killed and bled for feed for fur farms and canning factories manufacturing dog and cat food may be shipped into this state, but the entrails thereof shall not be shipped into the state, nor shall the entrails of healthy animals, freshly killed and bled for feed for fur farms and canning factories manufacturing dog and cat food within the state, be disposed of except by a licensed renderer or his employes as provided herein, or by burial. This section shall not apply to live stock truckers in cases where animals have died in transit.

(12) HOG FARMS. No hog or pig farm shall be permitted to be operated in connection with a rendering plant and it shall be unlawful for the operator of any rendering plant to feed any parts of dead animals in the raw or unfinished state to animals that are used for human consumption.

(13) DUTY TO DISPOSE OF BODIES. During the period from May to October, the carcass of any animal that has died must be disposed of within twenty-four hours by the owner or person in charge of such animal. Such carcass shall be disposed of by a licensed renderer or shall be buried or burned in accordance with the rules of the board. No licensed renderer shall charge the owner of such carcass for the same or for hauling the same from his premises to the rendering plant. Nothing herein shall prevent the owner from burying such carcass on his premises, and for the purpose of burial he may transport the carcass on a highway from one portion of his premises to another portion thereof, or he may deliver it to a rendering plant. No person who is engaged in the rendering or disposal of dead animals as defined by subsections (1) and (3) of this section shall transport or deliver milk, cheese or other dairy products to any market.

(14) EXISTING LAWS. Nothing in this section shall be construed to deprive any city or village from passing any ordinance prohibiting the rendering of dead animals within the boundaries as specified in section 66.05 (7) (a); nor shall anything in this section be construed to nullify any existing law or ordinance prohibiting the rendering of dead animals in the area over which any city or village has jurisdiction. Nor shall anything in this section be construed so as to prohibit any city or village from licensing, revoking such licenses, and regulating the business of rendering and transporting dead animals under sanitary conditions no less stringent than those provided by this section and the rules of the board. Any city or village licensing and regulation shall be construed as being supplementary to this section and the rules of the board and shall in no way be construed as excusing or justifying any failure or neglect to comply with any and all of the provisions of this section and the rules of the board. The provisions of this section shall be construed as expressly modifying the powers granted to towns.

(15) TIME IN WHICH TO COMPLY. All rendering plants within the state shall be licensed within three months after the passage and publication of this section for the balance of the license year with the first annual license fee of twenty-five dollars. No existing plant shall operate unless it obtains a license within four months from the effective date of this section.

(16) WITNESSES; SUBPOENAS; EXAMINATION. In the enforcement of the provisions of this section, the board may issue subpoenas for witnesses and enforce their attendance and examine them under oath.

(17) ORDERS, PRIMA FACIE LAWFUL. All findings, decisions, orders and rules and regulations of the state board of health made pursuant to this section shall be in force and shall be prima facie lawful until finally found otherwise in an action brought for that purpose pursuant to the provisions of subsection (18) of this section.

(18) REVIEW OF ORDERS. (a) Within twenty days after notice mailed by the board that any order or determination has been made and filed by it under the provisions of this section, any party named in said order or affected thereby may apply to the state board of health for a hearing in respect to any matter determined in such proceeding. Such hearing shall be held within ten days after said application is received by the state board of health unless the parties and the board agree otherwise. The application for a hearing shall set forth specifically the ground on which the applicant considers the order or determination to be unlawful or unreasonable. No action to review any order or determination of the state board of health shall lie in any court unless the plaintiff has made application to said board for a hearing within the time limited herein. If, after such hearing by the board it appears that the original order, determination or finding is in any respect unlawful or unreasonable, the board may reverse, change, modify or suspend the same accordingly, and any order or determination after such hearing, reversing, changing, modifying or suspending the original order or determination, shall have the

same force and effect as an original order or determination. If within fifteen days after the conclusion of said hearing, the board fails to issue an order affirming, reversing, modifying or suspending its original order or determination, it is deemed to have affirmed the original order or determination.

(b) It is declared that the legislative powers of the state, in so far as they are involved in the making and filing of orders or determinations by the state board of health have not been completely exercised until the board has held a hearing and made and filed its order or determination after such hearing, as provided for in this section.

(c) Every person aggrieved by an order or determination of the state board of health may commence an action for the review thereof in the circuit court of the county where the cause of action arose or in the county where the principal place of operating the business (as defined in subsection (2) of this section) within the state is located. Such review shall be tried as an original action by the judge. Whenever any complaint is served upon the board under the provisions of this section, before such action is reached for trial the board shall cause the original or a certified transcript of all prior proceedings and evidence taken upon the investigation or hearing and upon which the order complained of is based to be transmitted to the clerk of the circuit court. The records so filed by the board with the clerk of court shall be returned by him to the board within twenty days after the judgment of the court becomes final.

(d) Every action in a court to review any determination or order of the state board of health or to enjoin the enforcement thereof or to prevent such order or determination from becoming effective shall be commenced, and every appeal to any court or right of recourse to any court shall be taken or exercised within sixty days after the state board of health has mailed notice that it has made and filed its order after hearing as provided in paragraph (b) of this subsection. The right to commence any such action or to take or exercise any such review or right of recourse in any court shall terminate absolutely at the end of such sixty days from the mailing of such notice to the party named in said order or affected thereby. The judge's order as a result of such review shall be the order of the state board of health.

(19) PENALTY FOR VIOLATION. Any person, firm or corporation violating any of the provisions of this section, or any of the rules of the board adopted pursuant to this section, or operating a rendering plant without a license, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for a period of not more than six months or by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by both such fine and imprisonment, and said plant may be ordered discontinued by the board.

(20) SEVERABILITY. If any provisions of this section are held invalid the remaining subsections or provisions shall not be affected thereby. [1939 c. 423; 1943 c. 275 s. 43; 1943 c. 400]

Note: This section, licensing and regulating the rendering business, is an exercise of the police power of the state, but the police power cannot be extended so as to control acts beyond the jurisdiction of the state. The state board of health should not issue a renderer's license to an out-of-state renderer whose plant is located in another state, and thereby enable him lawfully to transport dead animal matter on the highways in this state and into such other state, at least in the absence of some reciprocal agreement between the states under (11)(b), since the statute contemplates the issuance of a renderer's license only to a renderer whose plant is subject to inspection and regulation by the state. The provision in (11)(b), that the transportation of dead animal matter on the highways by renderers "shall not be allowed into other states, except by reciprocal agreement with adjoining states or under rules of the board," does not amplify the rule-making power of the state board of health under (9) so as to authorize the board to make rules for issuing licenses to out-of-state renderers, but the word "or" in the quoted portion of (11)(b) is construed as meaning "and," and the

provision is construed as prohibiting the use of the highways of this state for out-of-state transportation of dead animal matter except as there may be a reciprocal agreement, and as calling for no rules by the board on the subject until such an agreement exists. *LaForge v. State Board of Health*, 237 W 597, 296 NW 93.

A license under this section may be issued only to the operator of a rendering plant. Transportation of animals is not licensed apart from the rendering thereof. Out-of-state renderer may not transport dead animals on Wisconsin highways unless he has licensed plant in Wisconsin. One engaged in business of collecting and processing dead animals for purposes of resale to operators of fox, fur or dog farms must obtain renderer's license. 29 Atty. Gen. 64.

Ch. 423, Laws 1939, does not authorize town to prohibit construction of rendering plant. Rules of state board of health regarding trucks employed by renderers do not apply to fur farmers collecting carcasses for food for their own animals. Licensed renderer may lease trucks and hire drivers to operate them. 29 Atty. Gen. 76.

146.124 Rendered meat. No person shall collect or receive from anyone dead or diseased animals or the parts thereof for feeding to animals used for human consumption, unless first thoroughly rendered as provided in section 146.12. No meat from dead or diseased animals shall be sold or used for human consumption nor dismembered or stored on the same premises with meat or other food used for human consumption. [1943 c. 400]

146.125 Powers of villages, cities and towns. The provisions of section 146.11 shall not be construed as a limitation upon cities, villages and towns to license and regulate the construction, operation and maintenance of slaughterhouses or to prohibit the same

nor shall the provisions of section 146.12 be construed as depriving any city or village from passing any ordinance prohibiting the rendering of dead animals within the boundaries specified in section 66.05 (7) nor as nullifying any existing law or ordinance prohibiting the rendering of dead animals within such area, nor prohibiting any city or village from licensing, revoking such license, and regulating the business of rendering and transporting dead animals under sanitary conditions no less stringent than provided by said section and the rules of the board of health and any such licensing and regulation shall be construed as supplementary to the provisions of this section and the rules of the board shall in no way be construed as excusing or justifying any failure or neglect to comply with any and all of the provisions of this section and the rules of the board. The provisions of section 146.12 shall be expressly construed as modifying the powers granted to towns and any city, village or town is empowered to take any action to be taken under the provisions of section 146.14 and to institute and maintain court proceedings to prevent, abate or remove any nuisances thereunder and to institute and maintain any action under provisions of sections 280.01, 280.02 and 280.07. [1939 c. 423; 1939 c. 517 s. 9; 1943 c. 400]

146.13 Draining into highway. In a town situated wholly within a county containing a city with three hundred thousand or more population, if anyone constructs any drain, pipe, sewer or other outlet so it discharges into a public highway infectious or noxious matter, or permits a water-closet to drain into a public highway, the board of health shall order the person, owner or occupant maintaining it, to remove it within ten days, and if he fail, he shall forfeit not less than five nor more than fifty dollars, and the board may cause its removal. To remove, the board may destroy it and may enter upon the premises. Anyone maintaining such a nuisance shall be fined not exceeding three hundred dollars or imprisoned not exceeding ninety days, or both.

146.14 Nuisances. (1) A "nuisance," under this section, is any source of filth or cause of sickness. The state board of health may order the abatement or removal of a nuisance on private premises, and if the owner or occupant fails to comply, the board, or its agent, may enter upon the premises and abate or remove such nuisance.

(2) If a nuisance be found on private property the local board of health shall order its abatement or removal within twenty-four hours, and if the owner or occupant fails to comply he shall forfeit not less than five nor more than fifty dollars, and the board may abate or remove the nuisance.

(3) If the local board of health be refused entry to any building or vessel to examine into and abate, remove or prevent a nuisance, any member may complain under oath to a justice of the peace, whether or not such justice be a member of the board, stating the facts in his knowledge and the justice shall issue a warrant commanding the sheriff or any constable of the county to take sufficient aid, and being accompanied by two or more of the board of health, and under their direction, between sunrise and sunset, abate, remove or prevent the nuisance.

(4) In cities under general charter the health commissioner or a person under him may enter into and examine any place at any time to ascertain health conditions, and anyone refusing to allow such entrance at reasonable hours shall be fined not less than ten nor more than one hundred dollars; and if the commissioner deems it necessary to abate or remove a nuisance found on private property, he shall serve notice on the owner or occupant to abate or remove within a reasonable time, not less than twenty-four hours; and if he fails to comply, or if the nuisance is on property whose owner is a nonresident, or cannot be found, the commissioner shall cause abatement or removal.

(5) The cost of abatement or removal of a nuisance by health officials under section 146.14 or 146.15, may be collected from the owner or occupant, or person causing, permitting or maintaining the nuisance, or may be charged against the premises and upon certificate of the health official, assessed as are other special taxes.

Note: State board of health may require either landlord or tenant to remedy water pollution or to itself remedy such condition and have cost thereof placed upon tax roll against property. 20 Atty. Gen. 827.

Public nuisance may be summarily abated by health commissioner of general charter city, under (4), or it may be abated by action in name of state under 280.02 either by attorney-general or by leave of circuit court. 24 Atty. Gen. 658.

146.15 Information. State officials, physicians of mining, manufacturing and other companies or associations, officers and agents of a company incorporated by or transacting business under the laws of this state, shall when requested, furnish, so far as practicable, the state board of health or its secretary any information required touching the public health; and for refusal shall forfeit ten dollars.

146.16 Expenses. Expenses incurred under chapters 142 to 146, inclusive, not made otherwise chargeable, shall be paid by the town, city or village.

146.17 Limitations. Nothing in the statutes shall be construed to authorize interference with the individual's right to select his own physician or mode of treatment, nor

as a limitation upon the municipality to enact measures in aid of health administration, consistent with statute and acts of the state board of health.

Note: This section should be used by municipalities as guide to exercise of discretion vested in them in administration of poor relief laws but it does not prohibit conscientious exercise of discretion. 30 Atty. Gen. 18.

146.18 Maternal and child health. (1) The state board of health shall prepare and submit to the proper federal authorities a state plan for maternal and child health services. Such plan shall conform with all requirements governing federal aid for this purpose and shall be designed to secure for this state the maximum amount of federal aid which can be secured on the basis of the available state, county, and local appropriations. It shall make such reports, in such form and containing such information, as may from time to time be required by the federal authorities, and comply with all provisions which may be prescribed to assure the correctness and verification of such reports.

(2) No official, agent or representative of the state board of health, by virtue of this section, shall have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this section shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

(3) The state board of health and vital statistics shall use sufficient funds from the appropriations now made by subsections (1) and (13) of section 20.43 of the statutes, for the promotion of the welfare and hygiene of maternity and infancy to match the funds received by the state from the United States under the provisions of such act of congress. [1935 c. 556]

146.19 [Renumbered sections 93.07, 97.71 (1), (2), (3), 97.72 (4), by 1935 c. 550 s. 8, 280, 281, 285]

146.20 Poisons, dispensing regulated. (1) No person shall sell or deliver any of the poisonous salts or compounds of antimony, arsenic, chromium, lead, mercury, silver, tin or zinc, the concentrated mineral acids; oxalic, carbolic or hydrocyanic acids or their salts, formaldehyde, yellow phosphorus, the essential oils, of almonds, pennyroyal, rue, savin or tansy; croton oil, creosote, chloroform, cantharides, aconite, belladonna, bitter almonds, colchicum, cotton root, Cannabis indica, digitalis, ergot, hyoseyamus, lobelia, nux vomica, physostigma, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or glucosides derived from the foregoing or in any other virulent poison, unless it be upon the prescription of authorized practitioners of medicine, dentistry or veterinary medicine, except as follows:

(a) The dispenser shall ascertain that the applicant is aware of the poisonous character and desires it for a lawful purpose.

(b) He shall plainly label the container with the name of the substance, the word "Poison," and the name and address of the dispenser.

(c) Before delivery (except of Paris green and sulphate of copper) he shall record in a book kept for that purpose, the name of the article, the quantity, the purpose, the date, the name and address of the person for whom procured, and the name of the individual personally dispensing the same; and said book shall be preserved by the owner thereof for at least three years after the date of the last entry therein, and shall be open to inspection by authorized officers.

(d) If the applicant be under fourteen years of age, he must have the written order of an adult person.

(2) This section does not apply to manufacturers and wholesalers selling at wholesale to licensed pharmacists or others, but the container shall be labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler.

(3) A "Poison" label is not required when a single container or when one-half ounce fluid or avoirdupois does not contain more than an adult medicinal dose nor in the case of liniments, ointments or other external preparations sold in good faith as such, and plainly labeled "for external use only," nor in the case of pills, tablets or lozenges, when the dose recommended does not contain more than one-quarter of an adult medicinal dose. [1935 c. 306]

146.21 Placing drugs forbidden. Except as authorized by law, no person shall put any drug, medicine or chemical, or any compound or combination thereof in any public place, or, without the consent of the owner or occupant upon any private premises, nor cause it to be done. [1935 c. 306]

146.22 Penalties. Any person who shall violate any of the provisions of section 146.124, 146.20 or 146.21 shall be guilty of felony and upon conviction shall be punished

by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the house of correction or state prison or other state or county institutions for not less than one year nor more than 5 years. [1935 c. 306; 1943 c. 400]

146.25 [Cr. by 1939 c. 423, rn. 146.125 by 1939 c. 517 s. 9]