

CHAPTER 167

SAFEGUARDS OF PERSONS AND PROPERTY

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**167.07 Manufacture, storage and distribution of matches. (1)** No person, association or corporation shall manufacture, store, offer for sale, sell, or otherwise dispose of or distribute white phosphorus, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches;" nor manufacture, store, sell, offer for sale, or otherwise dispose of or distribute white phosphorus, double-dipped, strike-anywhere matches, or other type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition, nonignitable on an abrasive surface; nor manufacture, store, sell or offer for sale, or otherwise dispose of or distribute matches which, when packed in a carton of five hundred approximate capacity and placed in an oven maintained at a constant temperature of two hundred degrees F., will ignite in eight hours; nor manufacture, store, offer for sale, sell or otherwise dispose of or distribute Blazer, or so-called wind matches, whether of the so-called safety or strike-anywhere type.

**(2)** No person, association or corporation shall offer for sale, sell or otherwise dispose of or distribute any matches, unless the package or container in which such matches are packed bears plainly marked on the outside thereof the name of the manufacturer and the brand or trademark under which such matches are sold, disposed of or distributed; nor shall more than one case of each brand of matches of any type or manufacture be opened at any one time in the retail store where matches are sold or otherwise disposed of; nor shall loose boxes or paper-wrapped packages of matches be kept on shelves or stored in such retail stores at a height exceeding five feet from the floor; all matches, when stored in warehouses, excepting manufacturers' warehouses at place of manufacture, when such warehouses contain automatic sprinkler equipment, must be kept only in properly secured

cases, and not piled to a height exceeding ten feet from the floor; nor be stored within a horizontal distance of ten feet from any boiler, furnace, stove or other like heating apparatus, nor within a horizontal distance of twenty-five feet from any explosive material kept or stored on the same floor; all matches shall be packed in boxes or suitable packages, containing not more than seven hundred matches in any one box or package; provided, however, that when more than three hundred matches are packed in any one box or package, the said matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions, and all boxes containing three hundred and fifty or more matches shall have placed over the matches a center holding or protecting strip, made of chipboard, not less than one and one-quarter inches wide; said strip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it.

**(3)** All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case, shall not exceed the following number:

Number of Boxes	Nominal Number of Matches per Box
One-half gross .....	700
One gross .....	500
Two gross .....	400
Three gross .....	300
Five gross .....	200
Twelve gross .....	100
Twenty gross .....	over fifty and under 100
Twenty-five gross .....	under 50

**(4)** No shipping container or case constructed of fiber board, corrugated fiber board, or wood, nailed or wirebound, shall exceed a weight, including its contents, of 75 pounds; and no lock-cornered wooden case containing

matches shall have a weight, including its contents, exceeding 85 pounds; nor shall any other article or commodity be packed with matches in any such container or case; and all such containers and cases in which matches are packed shall have plainly marked on the outside of the container or case the words "Strike-Anywhere Matches" or "Strike-on-the-Box Matches".

(5) Any person, association or corporation violating this section shall be fined for the first offense not less than \$5 nor more than \$25, and for each subsequent violation not less than \$25.

**167.10 Fireworks regulated.** (1) It is unlawful for any person to sell, expose or offer for sale, use, keep, discharge or explode any firecrackers, blank cartridges, toy pistols or cannons, toy canes or cannons in which explosives are used, contrivances using explosive caps or cartridges, sparklers, display wheels, the type of balloon which requires fire underneath to propel the same, torpedoes, sky rockets, Roman candles, aerial salutes, American or Chinese bombs or other fireworks of like construction, or any fireworks containing any explosive or flammable compound, or any tablets or other devices commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other modern explosives, within the state of Wisconsin, except as herein-after provided.

(2) Nothing herein contained shall prohibit the use of fireworks other than those prohibited by sub. (6) for pyrotechnic displays given by public authorities, fair associations, amusement parks, park boards, civic organizations or groups of individuals or for the protection of crops from predatory birds or animals by agricultural producers that have been granted a permit for such display or protective use by the mayor of the city, president of the village or chairman of the town wherein the display is to be given or the protective use is to occur, and permits issued for crop protection shall state the type of fireworks to be used for such purpose, and the owner or lessee of said land on which said fireworks are installed shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(a) The issuing officer may require an indemnity bond with good and sufficient sureties for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under such permit. Such bond, if required, shall be taken in the name of the city, village or town wherein the fireworks display is to be given, and

any person injured thereby may bring an action on said bond in his own name to recover the damage he has sustained, but the aggregate liability of the surety to all persons shall in no event exceed the amount of such bond. The bond, if required, together with a copy of the permit shall be filed in the office of the clerk of such city, village or town.

(3) Nothing herein contained shall prohibit the use or sale of blank cartridges for circus or theatrical purposes, or signal purposes in athletic contests or sports events, or use by militia, police or military organizations; nor the use or sale of colored flares or torpedoes for railway, aircraft, or highway signal purposes.

(4) Nothing in this section shall be construed to prohibit any resident wholesaler, dealer or jobber from selling fireworks other than those prohibited by sub. (6) at wholesale, but only when the same are shipped or delivered directly outside of the state of Wisconsin or to an organization, agricultural producer or group granted a permit under sub. (2).

(5) The following provisions shall apply to places where fireworks are stored or handled:

(a) Such premises shall be equipped with fire extinguishers approved by the fire chief or chief engineer of the fire department in the community in which such premises are located;

(b) Smoking shall be prohibited where fireworks are stored or handled;

(c) It is hereby made the duty of every wholesaler, dealer or jobber keeping, storing or handling, within the state of Wisconsin, fireworks of any description to notify the fire chief or chief engineer of the fire department in the community wherein such fireworks are kept, stored or handled, immediately of the receipt of such fireworks, or the removal thereof from one location to another, and the location where such fireworks are stored. No such fireworks shall be stored in any building used for dwelling purposes or in any building situated within 50 feet of any building used for dwelling purposes, or in places of public assemblage, or within 50 feet of any gasoline pump, gasoline filling station or gasoline bulk station, or any building in which gasoline or volatile liquid is sold in quantities in excess of one gallon.

(6) Under no circumstances shall any person sell, keep for sale, manufacture or bring into this state for use therein any fire balloon, mortars excepting mortars used for special display purposes or cannon, or any explosive cane, toy pistol, toy revolver or other contrivance using explosive caps or cartridges, any Chinese firecrackers more than 2 inches in length or more than three-eighths inch in diameter, outside

measurements of container, or any article containing a compound of mercury or yellow phosphorus.

(7) A parent or legally appointed guardian of any minor who shall knowingly permit such minor to purchase or have in his possession or to discharge any fireworks forbidden by this section shall be deemed to have violated this section and such parent or guardian shall be personally liable for any damage caused by such possession or discharge of fireworks.

(8) The mayor of each city, the president of each village, the chairman of each town, policemen, firemen and all other peace officers are charged with the duty of enforcing this section in their respective jurisdictions. Failure to do so shall constitute grounds for removal from office.

(9) Any person who shall violate any provision of this section shall be fined not less than \$25 nor more than \$500, or imprisoned not less than 30 days nor more than 6 months, or both. Each day on which such violation continues shall constitute a separate and distinct offense.

(10) The prohibitions and penalties provided in this section shall not apply to toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with the United States interstate commerce commission regulations for packing and shipping of toy paper caps are used or to toy pistol paper caps so manufactured, the sale and use of which shall be permitted at all times.

(11) The prohibitions and penalties provided in this section shall not apply to (a) gold star producing sparklers on wires which contain no magnesium, chlorate or perchlorate and (b) toy snakes which contain no mercury; the sale and use of which shall be permitted at all times.

(12) The prohibitions and penalties provided in this section shall not apply to smoke novelties and party novelties which contain less than one-quarter grain of explosive mixture.

**History:** 1977 c. 260.

Sub. (1) does not clearly, unambiguously and peremptorily apply to homemade cannon powered by naphtha. Thus, even though child injured by cannon shot was person sought to be protected by this statute, request for per se negligence finding was properly denied. *Fleury v. Wentorf*, 82 W (2d) 105, 262 NW (2d) 68.

A county or municipal ordinance may not prohibit the sale and use of articles which have been specifically excepted and exempted by this section. 60 Atty Gen 238.

**167.11 Hazardous substances.** (1) No person shall sell, offer for sale or otherwise distribute any package of a substance which when mixed with organic matter will cause spontaneous combustion under reasonably anticipated conditions of use or handling unless the package bears a label clearly warning that the substance will create a fire hazard when so mixed.

(2) The department of industry, labor and human relations shall, by rule, set forth the nature of such warning and shall enforce this section.

(3) Any person violating this section may be fined not less than \$25 nor more than \$100 for each offense.

**167.12 Safety appliances.** Any person, firm, or corporation who shall sell, offer or expose for sale, or use any machine to be operated by steam, or other power, for the purpose of husking or shredding corn or corn stalks shall provide such machine with safety or automatic feeding devices for the protection from accident by the snapping rollers, husking rollers, and shredding knives of any person using or operating such machine in the discharge of their duty, and such machine shall be so guarded that the person feeding said machine shall be compelled to stand at a safe distance from the snapping rollers; and any person, firm, or corporation operating such machine shall maintain thereon such safety or automatic feeding devices. The duty to equip such machine with safety or automatic feeding devices, as well as the duty to maintain the same, shall be absolute; and the exercise of ordinary care on the part of such person, firm, or corporation operating such machine shall not be deemed a compliance with such duty; and in case any person in the employ of such person, firm, or corporation operating such machine continues in such employment when such device has not been installed and maintained, as above provided, such employe shall not be deemed guilty of a want of ordinary care, on account of so continuing in such employment.

**167.13 Operation.** No person, firm or corporation shall use, operate or permit to be used or operated any such machine purchased prior to June 12, 1909, unless during all the time such machine shall be used and operated it shall be in charge of a competent person whose sole duty shall be to oversee and attend to the operation and use of the same; nor use, operate or permit to be used or operated any such machine whatever while the safety devices or guards are detached.

**167.14 Sale regulated.** No such machine shall be sold or offered or exposed for sale unless the said machine shall have plainly marked upon it the name and location of the person, firm or corporation manufacturing the same.

**167.151 Unlawful operation of corn shredders.** Any person, firm or corporation who shall violate any of the provisions of ss.

167.12 to 167.14 shall be punished by a fine of not less than \$25 or more than \$100 for each offense.

**167.16 Regulation of electric wiring. (1)**

It is hereby made the duty of every contractor and other person who does any electric wiring in this state to comply with the Wisconsin state electrical code, and the company furnishing the electric current shall obtain proof of such compliance before furnishing such service; provided, that nothing therein contained shall be construed as prohibiting any municipality from making more stringent regulations than those contained in the above mentioned code. Proof of such compliance shall consist of a certificate furnished by a municipal or other recognized inspection department or officer, or if there is no such inspection department or officer it shall consist of an affidavit furnished by the contractor or other person doing the wiring, indicating that there has been such compliance.

(2) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months.

**167.18 Threshing machine joints to be covered.**

Any person owning or running any threshing machine in this state so constructed that any joint, knuckle or jack thereof is dangerously exposed, who shall neglect to cover or secure the same in some suitable manner so as to prevent injury to persons passing over or near the same, shall be punished by fine not exceeding \$50 nor less than \$2.

**167.19 Farm machinery storage. (1)** Retail dealer's buildings for the storage of farm tractors, trucks and motorized farm machinery may be metal covered, pole type or frame and if other than metal or concrete covered shall not be closer than 30 feet to any other building. If the building is more than 50 feet in length it shall have more than one door.

(2) Motor fuel and storage batteries must be removed from units stored in such buildings, and any repairing or overhauling of the units in such buildings is prohibited.

**167.20 Stairway guards. (1)** The owner of any building or other structure which has an open stairway or area way leading to or abutting upon any sidewalk, and the owner of any real estate adjacent to or abutting upon any sidewalk and which is lower than such sidewalk, shall

sufficiently guard such stairway or area way or property as to prevent accidents.

(2) Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than six months. Each day during which a violation of the provisions of this section continues shall be deemed a separate offense.

**167.22 Cigars not to be manufactured in basements.** No shop or place wherein cigars are manufactured shall be located below the ground floor.

**167.25 Refrigerators and iceboxes. (1)**

Any person who discards or abandons any refrigerator, icebox, or deep freeze locker, having a capacity of 1 1/2 cubic feet or more, which is no longer in use, and which has not had the door removed, or such portion of the latch mechanism removed to prevent latching or locking of the door, is guilty of a misdemeanor. Any owner, lessee, or manager who knowingly permits such a refrigerator, icebox, or deep freeze locker to remain on premises under his control without having the door removed or such portion of the latch mechanism removed to prevent latching or locking of the door is guilty of a misdemeanor. Any person violating this section shall be fined not more than \$50 or imprisoned not more than 30 days or both.

(2) Guilt of a violation of this section shall not, in itself, render one guilty of manslaughter, battery or other crime against a person who may suffer death or injury from entrapment in such refrigerator, icebox or deep freeze locker.

**167.26 Leaving unguarded ice holes. (1)**

Any person who shall remove ice or cause its removal from any stream, pond or lake shall place around the margin of the opening made by such removal a fence, by setting posts of not less than 2 by 4 in size and with a fence board thoroughly nailed thereto not less than 3 1/2 feet above the surface of the ice on said stream, pond or lake.

(2) Any person creating ice holes by aeration of water may, in lieu of the requirements of sub. (1), erect and maintain a barricade around such holes consisting of uprights spaced every 25 feet or less, connected by a continuous rope, cord or similar material placed 3 1/2 feet off the surface of the ice. The connecting rope, cord or similar material shall have reflectorized ribbon or tape attached to it, so as to be highly visible, and shall be of sufficient strength to permit

retrieval of the barricade following melting of the ice. Any person erecting such barricade shall remove the barricade and all parts thereof from the ice or water immediately after the ice has melted.

(3) Persons barricading ice holes in the manner specified in this section shall not be liable for damages suffered by persons who enter within the barricaded area.

(4) This section shall not apply to ice holes caused by air bubbler systems installed by the corps of engineers for navigational purposes.

(5) This section shall apply to all navigable or public waters of the state.

(6) Persons violating this section shall be imprisoned for not more than 6 months or fined not more than \$100.

History: 1975 c. 296

**167.27 Capping and filling wells or similar structures.** (1) This section applies only to counties of a population of 500,000 or more.

(2) The owner of any real estate shall securely protect any well, seepage pit, cistern, cesspool, septic tank, or other similar structures in active use with a cover of concrete, metal or wood covered with sheet metal, securely fastened and of sufficient weight so it cannot be removed by small children and so as to make it free from danger to persons going upon such real estate.

(3) Whenever any shallow dug well, seepage pit, cistern, cesspool or septic tank is abandoned or its use discontinued, the owner of the real estate upon which it is located shall promptly fill the same to grade.

(4) Whenever any drilled, bored or deep dug well, except test wells of 10 inches or less in diameter, is abandoned or its use discontinued, the owner of the real estate upon which it is located shall promptly fill the same, either with alternate layers of sand or clay and concrete, and seal with a concrete cover at least 5 inches thick, or in accordance with recommendations of the department of health and social services.

(5) Whenever any mine shaft, exploration shaft or test well is abandoned or its use discontinued, the operator or contractor shall promptly fill same to grade or enclose the same with a fence of strong woven wire not less than 46 inches wide with one barbwire above or cap same with a reinforced concrete slab at least 6

inches thick or with a native boulder at least 3 times the diameter of the top of the shaft or test well bore. The strands of the woven wire shall not be smaller than No. 12 wire and the cross wires and meshes shall not be smaller than No. 16 wire; the strands shall not be more than 12 inches apart, and the meshes shall not exceed 8 inches square. All wires must be tightly stretched and securely fastened to sufficient posts firmly set not more than 8 feet apart. In case any person shall neglect to repair or rebuild such fence which he is so required to build and maintain, any person may complain to the department of industry, labor and human relations or to the local governing body, which shall give notice in writing to the person who is required to build and maintain such fence. The department of industry, labor and human relations or the local governing body shall then proceed to examine the fence, and if it shall determine that such fence is insufficient, it shall notify the person responsible for its erection and maintenance and direct him to repair or rebuild the fence within such time as it shall deem reasonable. Any person refusing to comply with such order shall be subject to the penalties provided.

(6) Existing abandoned mine shafts, exploration shafts or test wells shall be securely protected by owner of the real estate upon which it is located.

(7) Any person violating this section shall be fined not less than \$10 nor more than \$200 or imprisoned not exceeding 6 months, or both.

(8) Any violation of this section coming to the attention of the department of industry, labor and human relations or municipal authorities shall be reported to the attorney general or district attorney for prosecution.

**167.30 Use of firearms, etc., near park, etc.** Any person who shall discharge or cause the discharge of any missile from any firearm, slung shot, bow and arrow or other weapon, within 40 rods of any public park, square or enclosure owned or controlled by any municipality within this state and resorted to for recreation or pleasure, when such park, square or enclosure is wholly situated without the limits of such municipality, shall be punished by imprisonment in the county jail not exceeding 60 days or by fine of not more than \$25 nor less than one dollar.