

CHAPTER 167

SAFEGUARDS OF PERSONS AND PROPERTY

167 07	Manufacture, storage and distribution of matches	167 19	Farm machinery storage
167 10	Regulation of fireworks	167 20	Stairway guards
167 11	Hazardous substances	167 22	Cigars not to be manufactured in basements
167 12	Safety appliances	167 25	Refrigerators and iceboxes
167 13	Operation	167 26	Leaving unguarded ice holes
167 14	Sale regulated	167 27	Capping and filling wells or similar structures
167 151	Unlawful operation of corn shredders	167 30	Use of firearms, etc., near park, etc.
167 18	Threshing machine joints to be covered		

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 con-

167.07 SAFEGUARDS

3340

tents, 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 Regulation of fireworks. (1) DEFINITION. In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (a) Fuel or a lubricant.
 - (b) A firearm cartridge or shotgun shell.
 - (c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (f) A toy snake which contains no mercury.
 - (g) A model rocket engine.
 - (h) Tobacco and a tobacco product.
 - (i) A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
 - (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
 - (k) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight.
 - (l) A device that emits smoke with no external flame and does not leave the ground.
 - (m) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
 - (n) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (2) SALE. No person may sell or possess with intent to sell fireworks, except:
- (a) To a person holding a permit under sub. (3) (c);
 - (b) To a city, village or town; or

(c) For a purpose specified under sub. (3) (b) 2 to 6.

(3) USE. (a) No person may possess or use fireworks without a user's permit from the mayor of the city, president of the village or chairman of the town in which the possession or use is to occur or from an official or employe of that municipality designated by the mayor, president or chairman. No person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c) 1 to 5 or under par. (c) 6 if the display is open to the general public.

(b) Paragraph (a) does not apply to:

1. The city, village or town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.

2. The possession or use of explosives in accordance with rules or general orders of the department of industry, labor and human relations.

3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.

4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.

(c) A permit under this subsection may be issued only to the following:

1. A public authority.
 2. A fair association.
 3. An amusement park.
 4. A park board.
 5. A civic organization.
 6. A group of resident or nonresident individuals.
 7. An agricultural producer for the protection of crops from predatory birds or animals.
- (d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (e) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance 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 the permit. The bond or policy, if required, shall be taken in the name of the city, village or town wherein the fireworks are to be used, and any person injured thereby may bring

an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the clerk of the city, village or town.

(f) A permit under this subsection shall specify all of the following:

1. The name and address of the permit holder.

2. The date on and after which fireworks may be purchased.

3. The kind and quantity of fireworks which may be purchased.

4. The date and location of permitted use.

5. Other special conditions prescribed by ordinance.

(g) A copy of a permit under this subsection shall be given to municipal fire or law enforcement official at least 2 days before the date of authorized use.

(h) A permit under this subsection may not be issued to a minor.

(4) OUT-OF-STATE. This section does not prohibit a resident wholesaler, dealer or jobber from selling fireworks at wholesale, if that wholesaler, dealer or jobber ships or delivers the fireworks outside of this state in sealed opaque containers by, as defined in s. 194.01 (5), (11) and (14), common motor carrier, contract motor carrier or private motor carrier engaged in the business of shipping or delivering property, or to a person or group granted a permit under sub. (3) (c) 1 to 7.

(5) LOCAL REGULATION. (a) A city, village or town may adopt an ordinance for any of the following:

1. Defining "fireworks" to include all items included under sub. (1) (intro.) and anything under sub. (1) (e), (f), (i), (j), (k), (l), (m) and (n).

2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.

3. Regulating the sale, possession or use, as defined by ordinance, of fireworks.

(b) An ordinance under par. (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.

(6) STORAGE AND HANDLING. (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premise is located.

(b) No person may smoke where fireworks are stored or handled.

(c) A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.

(d) No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.

(e) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one gallon.

(6m) LICENSING AND INSPECTING MANUFACTURERS. (a) After June 30, 1985, no person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of industry, labor and human relations.

(b) After June 30, 1985, no person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the rules of the department of industry, labor and human relations promulgated under par. (e).

(c) Any person who, after June 30, 1985, manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of industry, labor and human relations with a copy of each federal license issued under 18 USC 843 to that person.

(d) The department of industry, labor and human relations shall issue a license to manufacture fireworks or devices listed under sub. (1) (e), (f) or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license under this subsection for the refusal to permit an inspection by the department or for a continuing violation of the rules promulgated under par. (e).

(e) The department of industry, labor and human relations shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n). The rules may not take effect before July 1, 1985.

(f) The department may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).

(7) PARENTAL LIABILITY. A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(8) ENFORCEMENT. (a) A city, village or town may petition the circuit court for an order

167.10 SAFEGUARDS

enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5).

(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) shall be seized. The fireworks shall be destroyed after conviction for a violation, and otherwise returned to the owner.

(9) **PENALTIES.** (a) A person who violates a court order under sub. (8) (a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.

(b) A person who violates sub. (2), (3) or (6) or an ordinance adopted under sub. (5) shall forfeit not more than \$1,000.

(c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.

(g) Whoever violates sub. (6m) (a), (b) or (c) or a rule promulgated under sub. (6m) (e) may be fined not more than \$10,000 or imprisoned not more than 10 years or both.

History: 1977 c. 260; 1983 a. 446, 538

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.

167.18 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

167.27 SAFEGUARDS

3344

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 pro-

tected 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.