

CHAPTER 352.

OFFENSES AGAINST PUBLIC HEALTH.

352.20	Inoculating with smallpox.	352.63	Sale of tobacco to persons under 16; public smoking forbidden.
352.21	Prescriptions by intoxicated person.	352.64	Premise owners who permit smoking; penalty.
352.22	Depositing poison.	352.67	Wood alcohol as beverage.
352.48	Endurance contests; penalty.		
352.49	Sale of tobacco to minors.		
352.50	Cigarettes, sale to minors; license to manufacture or sell.		

- 352.01 [Renumbered sections 97.01, 97.25, 97.72 by 1935 c. 550 s. 196, 222, 285]
 352.02 [Renumbered section 97.25 by 1935 c. 550 s. 222, 223]
 352.03 [Renumbered section 97.02 by 1935 c. 550 s. 197]
 352.04 [Renumbered sections 97.29, 97.72 by 1935 c. 550 s. 227, 285, 391]
 352.05 [Renumbered sections 97.54, 97.72 by 1935 c. 550 s. 254, 285]
 352.06 [Renumbered sections 97.49, 97.72 by 1935 c. 550 s. 249, 285]
 352.065 [Renumbered sections 97.50, 97.72 by 1935 c. 550 s. 250, 285]
 352.07 [Renumbered sections 97.61, 97.72 by 1935 c. 550 s. 265, 266, 285]
 352.075 [Renumbered sections 97.62, 97.72 by 1935 c. 550 s. 267, 284]
 352.08 [Renumbered sections 93.07, 97.60, 97.72 by 1935 c. 550 s. 8, 263, 264, 285]
 352.085 [Renumbered sections 93.07, 97.64, 97.72 by 1935 c. 550 s. 8, 269, 285]
 352.087 [Renumbered sections 97.65, 97.72 by 1935 c. 550 s. 270, 285]
 352.09 [Renumbered section 97.63 by 1935 c. 550 s. 268]
 352.10 [Renumbered section 97.69 by 1935 c. 550 s. 278]
 352.11 [Renumbered section 97.70 by 1935 c. 550 s. 279]
 352.12 [Renumbered section 97.27 by 1935 c. 550 s. 225]
 352.13 [Renumbered section 97.72 by 1935 c. 550 s. 285]
 352.14 [Renumbered sections 97.28, 97.72 by 1935 c. 550 s. 226, 285]
 352.15 [Renumbered sections 93.07, 93.08, 97.26, 97.72 by 1935 c. 550 s. 8, 9, 224, 285, 391]
 352.16 [Renumbered section 97.66 (1) by 1935 c. 550 s. 271]
 352.17 [Renumbered section 97.66 (2) by 1935 c. 550 s. 272]
 352.18 [Renumbered section 97.66 (4) by 1935 c. 550 s. 274]
 352.19 [Renumbered section 97.72 by 1935 c. 550 s. 285]
 352.20 **Inoculating with smallpox.** Any person who shall inoculate himself or any other person, or shall suffer himself to be inoculated, with the smallpox within this state, with the intent to cause the prevalence or spread of such infectious disease, shall be punished by imprisonment in the state prison not more than three years nor less than one year.
 352.21 **Prescriptions by intoxicated person.** Any physician or other person, while in a state of intoxication, who shall prescribe any poison, drug or medicine to another person shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding five hundred dollars.
 352.22 **Depositing poison.** Any person who shall deposit any poison or poisonous substance upon the lands or in the building of another person, with intent to injure any person, shall be punished by imprisonment in the county jail not more than ninety days or by fine not exceeding fifty dollars.
 352.23 [Renumbered sections 94.74, 94.77 by 1935 c. 550 s. 103, 106]
 352.24 [Renumbered sections 97.37, 97.72 by 1935 c. 550 s. 235, 285]
 352.25 [Renumbered section 97.36 by 1935 c. 550 s. 234]
 352.26 [Renumbered sections 97.38, 97.72 by 1935 c. 550 s. 236, 285]
 352.27 [Renumbered sections 97.36, 97.37 by 1935 c. 550 s. 234, 235]
 352.28 [Repealed by 1935 c. 550 s. 391]
 352.29 [Renumbered section 97.72 by 1935 c. 550 s. 285]
 352.30 [Renumbered section 97.36 by 1935 c. 550 s. 234]
 352.31 [Renumbered section 97.37 by 1935 c. 550 s. 235]
 352.32 [Renumbered section 97.40 by 1935 c. 550 s. 238]
 352.33 [Renumbered section 97.32 by 1935 c. 550 s. 230]
 352.34 [Renumbered section 97.33 by 1935 c. 550 s. 231]
 352.345 [Renumbered sections 93.07, 97.51, 97.72 by 1935 c. 550 s. 8, 251, 285]
 352.35 [Renumbered section 97.72 by 1935 c. 550 s. 285]
 352.36 [Renumbered section 97.43, 97.72 by 1935 c. 550 s. 242, 284]

352.365 [Repealed by 1929 c. 482 s. 10]

352.37 [Renumbered section 97.44 by 1935 c. 550 s. 243]

352.38 [Renumbered section 97.45 by 1935 c. 550 s. 244]

352.39 [Renumbered section 97.72 by 1935 c. 550 s. 285]

352.40 [Repealed by 1931 c. 276]

352.41 [Renumbered sections 93.07, 97.46, 97.72 by 1935 c. 550 s. 8, 245, 285]

352.42 [Renumbered sections 97.47, 97.72 by 1935 c. 550 s. 246, 247, 285]

352.43 [Renumbered sections 97.55, 97.72 by 1935 c. 550 s. 255, 285]

352.44 [Renumbered section 93.21 by 1935 c. 550 s. 22]

352.45 [Renumbered sections 97.31, 97.72 by 1935 c. 550 s. 229, 284]

352.46 [Renumbered sections 97.59, 97.72 by 1935 c. 550 s. 262, 285]

352.47 [Renumbered section 143.11 by 1927 c. 473 s. 56]

352.48 **Endurance contests; penalty.** (1) No person, firm or corporation shall advertise, operate, maintain, attend, participate in, promote or aid in advertising, operating, maintaining or promoting any physical endurance contest, exhibition, performance, or show in the nature of a "marathon," "walkathon," "skatathon" or any other physical endurance contest, exhibition, performance or show of a like or similar nature, whether or not an admission is charged or a prize is awarded to any person for participation in such physical endurance contest, wherein any person participates in such contest for a period of more than sixteen hours in any twenty-four hours over a period of more than six days in one month.

(2) Any person attending any contest, exhibition, performance or show enumerated in subsection (1) shall be punished by a fine of not less than five dollars nor more than twenty-five dollars or by imprisonment in the county jail for not more than ten days or by both such fine and imprisonment.

(3) Except as provided in subsection (2) any person, firm or corporation violating any of the provisions of subsection (1) shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than one year, or by both such fine and imprisonment. Each day for which any of the provisions of said subsection (1) is violated shall constitute a separate offense.

(4) The place, buildings and premises where any of the illegal exhibitions or contests mentioned in subsection (1) hereof are hereafter conducted, maintained, had or held are hereby declared to be and constitute a public nuisance, and it is hereby the duty of the attorney-general and district attorney to take proper action to abate the same.

(5) The provisions of subsection (3) of section 348.085 shall also apply to this section.

(6) Nothing contained in this section shall be construed to apply to or prohibit roller skating or bicycle contests or races which are not intended to and which do not continue for or have a duration of more than one hundred and fifty hours. [1935 c. 257]

Note: See note to 62.11, citing Fox v. Racine, 225 W 542, 275 NW 513.

352.49 **Sale of tobacco to minors.** Any person who shall sell or give to any minor a cigar or other tobacco in any form (except cigarettes), after having been forbidden to so do by the parent or guardian of such minor, shall be punished by fine of not more than \$25 nor less than \$10. [1943 c. 177]

352.50 **Cigarettes, sale to minors; license to manufacture or sell.** (1) Any person who shall, by himself, his servant or agent, or as the servant or agent of any other person, directly or indirectly, or upon any pretense, or by any device, sell, give away or otherwise dispose of to any minor any cigarettes, cigarette paper or cigarette wrappers, or any substitute therefor, or any paper made or prepared for the purpose of making cigarettes or any substitute therefor, or for the purpose of being filled with tobacco for smoking shall be guilty of a misdemeanor and upon conviction thereof shall be punished in the manner hereinafter provided.

(2) It shall be unlawful for any person, firm, or corporation, in any manner, directly or indirectly, upon any pretense, or by any device, to manufacture, sell, exchange, barter, dispose of or give away, or keep for sale any cigarettes, cigarette paper or cigarette wrappers, or any paper made or prepared for the purpose of being filled with tobacco without first obtaining a license therefor, as hereinafter provided.

(3) License for the manufacture, sale, exchange, barter, disposition of or giving away or keeping for sale of cigarettes, cigarette paper, or cigarette wrappers made or prepared for the purpose of being filled with tobacco for smoking, shall be issued by the city, village or town clerk, of the city, village or town wherein such right is sought to be exercised. Every such license shall be issued on the first day of July in each year or thereafter whenever applied for and shall continue in force from date of issuance until the succeeding thirtieth day of June, unless sooner revoked for a violation of this section as herein provided.

(4) Every person, firm or corporation desiring a license under this section shall file with the city, village or town clerk of the city, village or town wherein such right is sought to be exercised, a written application therefor, stating the name of the person and the place for which such license is desired. Every license shall be signed by the city, village or town clerk and shall name the licensee and the place wherein he is authorized to conduct such business and the same shall not be delivered until the applicant shall produce and file with such clerk a receipt showing the payment of a license fee of five dollars to the treasurer of such municipality. In case of a change of ownership in any licensed location the authority granting the license may authorize a transfer of such license to the new owner.

(5) Any person violating any of the provisions of subsection (1), (2), (3), (4) or (5) of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100 nor less than \$25 for the first offense and by a fine of not more than \$200 nor less than \$25 for the second or subsequent offense. And if upon such second or subsequent violation, the person so violating subsection (1), (2), (3), (4) or (5) of this section shall have been personally guilty of a failure to exercise due care to prevent violation thereof, he shall be punished upon conviction thereof by a fine of not more than \$300 nor less than \$25 or by imprisonment in the county jail not exceeding 60 days or by both such fine and imprisonment, and such conviction shall immediately terminate the license of the person so convicted and such person shall not be entitled to another license hereunder for a period of 5 years thereafter, nor shall he in that period act as the servant or agent of a person licensed hereunder for the performance of the acts authorized by such license. The provisions hereof shall not apply to the sales of jobbers or manufacturers doing an interstate business with customers outside of the state.

(6) Any minor being in possession of any cigarettes, cigarette paper or cigarette wrappers and being asked by any sheriff, deputy sheriff, police officer, village marshal, truant officer, probation officer or teacher in any school to tell where or from whom such cigarettes, cigarette paper or cigarette wrappers were obtained, who shall refuse to furnish such information, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$5; and any minor who shall intentionally misrepresent his age for the purpose of securing any cigarettes, cigarette paper, or cigarette wrappers, or any substitute therefor, or any paper made or prepared for the purpose of making cigarettes or any substitute therefor, or for the purpose of being filled with tobacco for smoking, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$25 or by imprisonment in the county jail not more than 30 days, or by both such fine and imprisonment; provided that if such person shall be a boy under the age of 17 years or a girl under the age of 18 years, such person shall be a "delinquent child" under section 48.01 subsection (1) and subject to the provisions of the statutes relating to juvenile courts. [1943 c. 177]

Note: The sale, by a retail merchant in this state, of a sealed package of tobacco, purchased in the regular course of business, containing a coupon stating that a certain foreign corporation would send a specified quantity of cigarette paper to any one transmitting to it by mail three of such coupons, is a violation by such retailer of a law which prohibits any person "by himself, his servant or agent, or as the servant or agent of any other person, directly or indirectly, or upon any pretense, or by any device," from selling or otherwise disposing

of cigarette paper. The retailer in such a case is the principal in the sense that a sale of the package includes the sale of a coupon, and an agent in the sense that he acts for the foreign dealer in the latter's effort to supply customers in this state with cigarette paper. Such a sale does not involve any question of interstate commerce. State v. Sbragia, 138 W 579, 119 NW 290.

Only statute under which prosecution for sale of cigarettes to minors may be brought is 352.50. 30 Atty. Gen. 425.

- 352.51 [Renumbered sections 97.68, 97.72 by 1935 c. 550 s. 277, 285]
- 352.52 [Renumbered 69.55 by 1943 c. 503 s. 72]
- 352.53 [Renumbered section 97.12 by 1935 c. 550 s. 209]
- 352.54 [Renumbered section 97.24 by 1935 c. 550 s. 221, 391]
- 352.55 [Renumbered section 97.72 by 1935 c. 550 s. 285]
- 352.56 [Renumbered sections 93.07, 97.23, 97.72 by 1935 c. 550 s. 8, 16, 220, 285]
- 352.57 [Renumbered sections 97.53, 97.72 by 1935 c. 550 s. 253, 285]
- 352.58 [Renumbered section 97.57 (1) by 1935 c. 550 s. 257]
- 352.59 [Renumbered section 97.57 (2) by 1935 c. 550 s. 258]
- 352.60 [Renumbered section 97.57 (3) by 1935 c. 550 s. 259]
- 352.61 [Renumbered section 97.57 (4) by 1935 c. 550 s. 260]
- 352.62 [Renumbered section 97.72 by 1935 c. 550 s. 285]

352.63 Sale of tobacco to persons under 16; public smoking forbidden. Every person who shall sell or give to any person under the age of 16 years, a cigar, or tobacco in any form (except cigarettes), without the written consent of the parent or guardian of such minor, shall be punished by a fine of not less than \$10 nor more than \$25 for each offense, and every person under the age of 16 years who shall smoke or use cigarettes,

cigars or tobacco on any public road, street, alley or park or other lands used for public purposes or in any public place of business or amusement, except when in the company of a parent or guardian, is a delinquent child as defined in section 48.01 (1) (c). [1943 c. 177]

352.64 Premise owners who permit smoking; penalty. Any person who shall permit any person under the age of sixteen years who shall not be in the company of a parent or guardian to use cigarettes, cigars or tobacco in any form in or upon premises occupied by him, shall be punished for the first offense by a fine of not more than ten dollars and for any subsequent offense by a fine of not more than thirty-five dollars or by imprisonment for not exceeding thirty days.

352.66 [Renumbered sections 97.56, 97.72 by 1935 c. 550 s. 256, 285]

352.67 Wood alcohol as beverage. Any person who shall by himself, his servant or agent, or as the servant or agent of any other person, manufacture, sell or offer for sale for human consumption, any beverage containing wood alcohol, shall be punished, for the first offense, by imprisonment for not less than one year or more than two years, and for the second or any subsequent offense by imprisonment for not less than two years or more than five years.