

White persons committing crimes on Indian reservations are subject to state laws. This includes the operation of slot machines. OAG May 14, 1948 (738-D).

## **325.56 PEACE OFFICERS TO OBSERVE AND INSPECT PREMISES**

A sheriff, deputy sheriff, constable, marshal, policeman, police officer or peace officer, are required to notify the licensing bureau after a gambling raid so that the proper proceedings may be instituted for the revocation of the license. OAG Oct. 14, 1947 (733).

## **325.57 PROCEEDINGS BEFORE ISSUING AUTHORITY; ORDER TO SHOW CAUSE**

The requirements of service required by section 325.57 were complied with when a copy of the order to show cause why the license should not be revoked because of the keeping of a gambling device on the premises was served on the defendant eight days prior to the date of hearing and the copy of the order mailed to the owner on the premises. OAG June 2, 1947 (733).

## **325.58 REVOCATION OF LICENSE**

If the owner of the business is without knowledge of the existence of the gambling device on his premises, he cannot be held responsible for a violation of the law by his employees. OAG May 12, 1947 (733).

On appeal from a revocation of license, the district court may permit the continuance of the same business on the premises but may require a bond. OAG May 12, 1947 (733).

In proceedings to revoke a license under sections 325.53, 325.54, and 325.58, it is not necessary to resort to the definitions of gambling devices in prior statutes, such as sections 614.053 and 614.054. OAG May 26, 1947 (736-D).

# **CHAPTER 326**

## **EMPLOYMENTS LICENSED BY STATE**

### **326.01 DEFINITIONS**

**HISTORY.** 1899 c 312 s 1-5, 13; RL 1905 s 2357; 1907 c 457 s 8; 1913 c 554 s 1; GS 1913 s 5082, 5097; GS 1923 s 5872, 5887; MS 1927 s 5872, 5887; 1933 c 349 s 5; 1937 c 314 s 1; 1937 c 367 s 1, 6; 1937 c 370 s 4; 1941 c 460 s 1; 1943 c 474 s 1; 1947 c 253 s 1.

Judicial review of federal trade commission findings. 37 MLR 620.

Where the terms of a written contract are uncertain and ambiguous and susceptible of more than one interpretation, parol evidence may be introduced to show what was in the minds of the parties when the contract was made and the actual situation that then existed to the knowledge of both parties. The basic rate of an architect's compensation which under the written contract was to be based upon the total cost of work defined as a contract, sums incurred for execution of the work, could be determined only after construction of the contract had been let and could not be based on a rejected bid substantially in excess of the limitation placed by the owner on the cost of the work. *Wick v Murphy*, 237 M 447, 54 NW(2d) 805.

A person performing work in connection with the erection and installation of radio broadcasting towers is not required to hold an electrician's license. OAG Dec. 9, 1948 (188-C).

Any person over 21 years of age is eligible to take an examination for a license as a contracting steam fitter who possesses sufficient education to read and compre-

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hend blue prints, specifications, terms of contracts, and to compute the cost of installing high pressure steam piping and equipment and has worked at the trade of steam fitting for five years or more. Such examination is given to individuals only. A firm or corporation cannot qualify but is required to employ a licensed steam fitter to supervise such steam fitting work as it is contracted to do. Master plumbers operate under a different law and are not under the control of the industrial commission. OAG March 31, 1949 (680-B).

## ARCHITECTS, ENGINEERS, SURVEYORS

### 326.02 REGISTRATION OF ARCHITECTS, ENGINEERS, AND SURVEYORS

The courts should declare an ordinance void only when its unreasonableness is so clear, manifest, and undoubted as to amount to mere arbitrary exercise of legislative power. A classification in an ordinance need only rest on some basis which is reasonable, natural, and proper in relation to the danger sought to be controlled, and which discloses the propriety of the differentiation. A classification established by permit ordinance requiring preparation of plans by "registered professional engineer", in case of heating installations involving an area of over 100,000 cubic feet; was a reasonable classification in view of the probable greater complexity and danger in the larger installations. *State v Clarks Plumbing & Heating, ..... M .....*, 56 NW(2d) 667.

One not a registered architect but who holds himself out as an architectural designer cannot lawfully prepare plans for the alterations of a building being altered for the purpose of a municipal liquor store, if the total cost of the alteration is about \$7,000. OAG June 23, 1947 (10-A).

A person registered as a civil engineer but not as a land surveyor may possess qualifications of a city charter for appointment as city engineer of South St. Paul and, if so, may be qualified to act as a civil engineer under the state law. OAG Aug. 18, 1949 (10-A-3).

A church may erect a building by use of plans not prepared by a registered architect; but plans for a church building costing more than \$2,000 may not be prepared by an unregistered man. OAG Feb. 15, 1949 (10-A).

A church building is not exempt from the provisions of law relating to architects and coded as sections 326.02 to 326.16. OAG July 16, 1953 (10-A).

No duty is imposed upon the city engineer, who, under city charter provisions, issues building permits to require compliance with or enforce the provisions of sections 326.02 to 326.16, with respect to the employment of a licensed architect. OAG Jan. 27, 1949 (10-A-3); OAG March 25, 1949 (10-A-3).

When a license or certificate is required by statute before one may practice his profession, and such license is required for public protection, a contract for such services by one not so licensed is illegal and void. A contract by a company for architectural work made with one not a licensed architect or engineer, is void. Payment for such services would be illegal. OAG May 8, 1950 (10-A-3).

### 326.03 REGISTRATION REQUIRED

One not a registered architect but who holds himself out as an architectural designer, cannot lawfully prepare plans for the alterations of a building being altered for the purpose of a municipal liquor store, if the total cost of the alteration is about \$7,000. OAG June 23, 1947 (10-A).

Section 326.03 is not a limitation upon the power of a church to construct a building. There is no statute requiring a church organization to employ an architect. OAG May 19, 1948 (10-A).

The city engineer may not prepare plans and specifications and supervise the construction of a building for the city if the total cost is in excess of \$2,000. Employment of a registered architect is necessary. OAG Jan. 22, 1953 (10-A).

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A person registered as a civil engineer but not registered as a land surveyor may possess the qualifications demanded by the city charter for appointment as city engineer of South St. Paul. OAG July 22, 1949 (10-A-3).

An unregistered engineer, otherwise qualified, may not prepare and certify the plans and specifications for a public improvement costing more than \$2,000. OAG July 26, 1951 (10-A-3).

A plat may be certified by a county engineer who is not a registered engineer. OAG June 22, 1948 (123-E).

### **326.04 STATE BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS, AND SURVEYORS**

HISTORY. Amended, 1949 c 86 s 1.

#### **326.05 QUALIFICATIONS OF BOARD MEMBERS**

HISTORY. 1874 c 52 s 3; 1875 c 111 s 1; GS 1878 c 124 s 23; Penal Code s 317; GS 1894 s 6611, 7799; RL 1905 c 325 s 1; RL 1905 s 5164; GS 1913 s 8969; 1921 c 523 s 4; MS 1927 s 5697-4.

#### **326.06 GENERAL POWERS AND DUTIES OF BOARD**

HISTORY. 1874 c 52 s 3; 1875 c 111 s 1; GS 1878 c 124 s 23; GS 1894 s 7999; RL 1905 c 325 s 1; GS 1913 s 8969; 1921 c 523 s 5; MS 1927 s 5697-5.

#### **326.07 BOARD, MEETINGS OF OFFICERS, QUORUM**

HISTORY. 1874 c 52 s 3; 1875 c 111 s 1; GS 1878 c 124 s 3; Penal Code s 317; GS 1894 s 6611, 7799; RL 1905 c 325 s 1; RL 1905 s 5164; GS 1913 s 8969; 1921 c 523 s 6; MS 1927 s 5697-6; 1949 c 86 s 2.

#### **326.08 FEES, DISPOSAL OF; PAY OF BOARD MEMBERS; BONDS**

HISTORY. 1921 c 523 s 7; Mason's 1927 s 5697-8.

Travel and other expenses of board members of the state board of registration for architects, engineers, and land surveyors, attending a national meeting of state examining boards, may be paid from board funds if the members deem the attendance necessary to the proper performance of their duties. OAG Sept. 17, 1953 (10-A).

#### **326.10 CERTIFICATES OF REGISTRATION**

HISTORY. Amended, 1949 c 86 s 3; 1949 c 507 s 1.

The evidence sustained a finding that the petitioner merely applied to the state board of registration for architects, engineers, and land surveyors for permission to take an examination to obtain a certificate of registration as an architect and did not apply for a certificate under the grandfather clause of the statute, authorizing issuance of certificates without examination under specified conditions so that the certificate was properly withheld by the board on the petitioners inability to pass an examination. *Malm v Shepard*, 229 M 425, 40 NW(2d) 72.

#### **326.11 CERTIFICATES OF REGISTRATION; REVOCATION, REISSUE, DUPLICATES**

HISTORY. Amended, 1949 c 86 s 4.

#### **326.16 APPEALS TO DISTRICT COURT**

No duty is imposed upon the city engineer, who, under the city charter provisions, issues building permits to require compliance with or enforce the provisions

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of MSA, 326.02 to 326.16, with respect to the employment of a licensed architect. OAG Jan. 27, 1949 (10-A-3).

A person registered as a civil engineer but not registered as a land surveyor may possess qualifications of a city charter for appointment of city engineer of South St. Paul, and if so, may be qualified to act as civil engineer under the state law. OAG Aug. 18, 1949 (10-A-3).

## ACCOUNTANTS

### 326.19 CERTIFICATES, TO WHOM GRANTED

HISTORY. 1909 c 439 s 3; GS 1913 s 4964; GS 1923 s 5700; MS 1927 s 5700; 1933 c 236; 1947 c 31 s 1; 1949 c 577 s 1.

A "special" internal revenue agent is an internal revenue agent within the meaning of section 326.19. OAG Dec. 26, 1951 (882-F-1).

### 326.21 HOLDER OF CERTIFICATE, HOW STYLED

The city of Benson has no authority to employ an accountant to audit the books where a member of the firm, who is a certified public accountant, is not a certified accountant in Minnesota. OAG Oct. 18, 1948 (355-A-3).

### 326.23 REVOCATION AND REINSTATEMENT OF CERTIFICATES OF CERTIFIED PUBLIC ACCOUNTANTS

HISTORY. 1909 c 439 s 7; GS 1913 s 4968; GS 1923 s 5704; MS 1927 s 5704; 1933 c 283 s 1.

The certificate of a certified public accountant cannot be canceled without a hearing. Written notice must be sent to the holder of the certificate at least 20 days before the hearing and the notice must state the reason for the contemplated revocation and appoint a time and place for hearing thereon. OAG July 29, 1953 (882-F).

## ELECTRICIANS

### 326.24 STATE BOARD OF ELECTRICITY

HISTORY. 1919 c 312 s 1-5, 13; RL 1905 s 2357; 1913 c 554 s 1; Mason's 1927 s 5872; 1937 c 314 s 1; 1947 c 253 s 2; 1951 c 555 s 1.

Public officers are answerable for their negligent acts in the performance of their official duties to those who suffer injury therefrom; but the state board of electricity is not responsible for the negligence of its inspectors. OAG Oct. 14, 1953 (188-A).

The state board of electricity cannot recognize a municipal electrical inspection if made by an unlicensed electrical inspector. OAG June 26, 1953 (188-B).

Sections 326.24 to 326.32, as amended by Laws 1947, Chapter 253, do not authorize a temporary Class B electrician to contract with a farmer to install electric wiring on his farm buildings. OAG Sept. 9, 1948 (188-C).

### 326.25 ELECTRICAL CONTRACTOR; JOURNEYMAN OR SPECIAL ELECTRICIAN; LICENSES; TEMPORARY PRACTICE

A person licensed as an electrician under the state law cannot be prohibited from practicing his trade upon the ground that he is a nonresident of the municipality where he desires to work. OAG March 8, 1951 (188-B).

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A person performing work in connection with the erection and installation of radio broadcasting towers is not required to hold an electrician's license. OAG Dec. 9, 1948 (188-C).

### 326.26 MASTER ELECTRICIANS

**HISTORY.** 1899 c 312 s 8; RL 1905 s 2359; MS 1927 s 5874; 1937 c 314 s 3; 1943 c 242 s 1; 1947 c 253 s 4; 1951 c 475 s 1.

Any person who shall perform any services for another in installing or repairing electrical wires without first having complied with sections 326.26 to 326.32 is guilty of a misdemeanor. OAG Dec. 9, 1952 (188-C).

**326.30** Unnecessary.

### 326.31 SECOND EXAMINATION; REVOCATION OF LICENSE; HEARING, APPEAL

The state board of electricity cannot recognize a municipal electrical inspection if made by an unlicensed electrical inspector. OAG June 26, 1953 (188-B).

Section 326.31, as amended by Laws 1947, Chapter 253, does not preclude the appointment to the office of electrical inspector in a village a person engaged in the electrical business elsewhere than in the village. OAG April 19, 1947 (188-D).

While an electrical inspector may not engage in the electrical business or have a financial interest therein within the political subdivision for which appointed, he is not precluded by law from having an interest in a business outside the subdivision. OAG Aug. 19, 1947 (188-D).

A municipal electric inspector may be an employee of a company doing the work in the same municipality provided he is not financially interested in the contract. The state board of electricity may make original inspection whenever requested, even if the municipality has its own electrical inspection. OAG Aug. 20, 1953 (188-D).

### 326.32 COMPLIANCE WITH RULES; MUNICIPAL REQUIREMENTS; CERTIFICATE OF INSPECTION; PENALTY

**HISTORY.** Amended, 1951 c 555 s 2.

Where it was not shown that the transformer for the neon sign was in any way defective had its secondary wires been properly connected to a neon sign rather than left hanging, and the negligence if any, was in the manner in which it was left when the installation of the sign was not completed and, therefore, liability could not be predicated upon the theory that the defendants were suppliers of a defective chattel. *Hippe v Duluth Brewing & Malting Co., ..... M .....*, 59 NW(2d) 665.

Where an inspection department or office has been created by law or ordinance to inspect electrical installations, proof of compliance with the regulations relating to electric wiring must be made by a certificate furnished by the inspection department or officer; but if there is no law or ordinance establishing such department or officer, the proof must be by affidavit. OAG July 31, 1947 (188-D).

A person licensed as an electrician under the state law cannot be prohibited from practicing his trade upon the ground that he is a nonresident of the municipality where he desires to work. OAG March 8, 1951 (188-B).

The state board of electricity cannot recognize a municipal electrical inspection if made by an unlicensed electrical inspector. OAG June 26, 1953 (188-B).

Sections 326.24 to 326.32, as amended by Laws 1947, Chapter 253, do not authorize a temporary Class B electrician to contract with a farmer to install electric wiring in farm buildings. OAG Sept. 9, 1948 (188-C).

**326.33** Repealed, 1945 c 130 s 1.

## PRIVATE DETECTIVES

### **326.331 PRIVATE DETECTIVES, LICENSES**

**HISTORY.** 1945 c 130 s 2.

Laws 1945, Chapter 130, repeals sections 326.33 to 326.36, and supplants these repealed sections by a new method of licensing and regulating private detectives. Chapter 130 is coded as sections 326.331 to 326.339. 32 MLR 395.

A person, by confederating and combining with the members of existing conspiracy, of which he has no knowledge, to commit a lawful act which consummates and accomplishes a purpose of the conspiracy is not liable as a member thereof. *Harding v Ohio Casualty Insurance Co.*, 230 M 327, 41 NW(2d) 818.

### **326.333 SURETY BOND**

Where the insurer has the absolute right to withdraw as surety from the bond of a private detective, and the insurer's agents were authorized to affect such withdrawal, they are not liable for any harm to the detective caused thereby. *Harding v Ohio Casualty*, 230 M 327, 41 NW(2d) 818.

### **326.337 UNLAWFUL ACTS**

The holder of a private detective license may not conduct a collection agency even though he files a bond with the secretary of state. OAG July 12, 1949 (876-B).

**326.34-326.36** Repealed, 1945 c 130 s 1.

## PLUMBERS

### **326.37 PLUMBERS; SUPERVISION BY STATE BOARD OF HEALTH**

Undisputed evidence that defendant, the owner of certain property, purchased plumbing material and employed labor for its installation; that he otherwise had charge of the work but failed to obtain the necessary permit for the work as required by municipal ordinance; that he caused the drain, waste and vent system thus installed to be walled in before inspection tests had been made and the approval of the municipal plumbing inspector obtained, the evidence was sufficient to sustain the defendant's conviction for violation of a city ordinance. *State v Friedman*, 230 M 167, 40 NW(2d) 912.

Installing and connecting hot water heaters to a distributing system where existing water pipes are cut is plumbing under the statute, and the work may be done only by a licensed master plumber. OAG March 31, 1947 (328-A).

Fixtures, including water closet bowls, when used for the convenience of guests occupying a motel, constitute Class 1 or private fixtures under the Minnesota Plumbing Code. OAG May 12, 1953 (338).

### **326.38 LOCAL REGULATIONS**

**HISTORY.** 1933 c 349 s 2; 1937 c 370 s 2; 1941 c 367 s 1; 1953 c 166 s 1.

A village which does not have a system of waterworks or sewer is without authority to provide for the registration or licensing of plumbers holding a state license. OAG Oct. 31, 1952 (338-A).

### **326.39 PLUMBERS MUST BE LICENSED IN CERTAIN CITIES OR VILLAGES; MASTER AND JOURNEYMAN PLUMBERS; PLUMBING ON ONE'S OWN PREMISES; RULES FOR EXAMINATION**

Undisputed evidence that defendant, the owner of certain property, purchased plumbing material and employed labor for its installation; that he otherwise had

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charge of the work but failed to obtain the necessary permit for the work as required by municipal ordinance; that he caused the drain, waste and vent system thus installed to be walled in before inspection tests had been made and the approval of the municipal plumbing inspector obtained, the evidence was sufficient to sustain the defendant's conviction for violation of a city ordinance. *State v Friedman*, 230 M 167, 40 NW(2d) 912.

## STEAMFITTERS

### 326.50 APPLICATION; FEES

HISTORY. 1937 c 367 s 8; 1951 c 119 s 1.

## MOTION PICTURE FILM EXHIBITORS

### 326.53 VIOLATIONS, PENALTY PROVISIONS

HISTORY. 1907 c 457 s 7; 1909 c 439 s 8; GS 1913 s 4969, 5096; 1921 c 523 s 12; GS 1923 s 5705, 5886; MS 1927 s 5697-12, 5705, 5886; 1933 c 349 s 9; 1933 c 404 s 3; 1937 c 367 s 10; MS s 5887-27; 5887-30i; 1941 c 460 s 5; 1943 c 474 s 9; 1945 c 380 s 9.

The city of Benson has no authority to employ an accountant to audit the books where a member of the firm, who is a certified public accountant, is not a certified accountant in Minnesota. OAG Oct. 18, 1948 (355-A-3).

## WATCHMAKERS

### 326.54 REGISTRATION

NOTE: Laws 1943, Chapter 474, coded as sections 326.54 to 326.546, regulating the business of watchmaking, was derived from the Wisconsin law relating to the same subject. 31 MLR 70.

A registered watchmaker may establish his place of business in his own home. OAG May 21, 1947 (499).

The board of examiners in watchmaking are not entitled to a per diem except while performing official duties. OAG Sept. 18, 1948 (499).

### 326.544 CERTIFICATES OF REGISTRATION

It is the watchmaker and not his place of business that is registered. He may ply his trade in his home. OAG Oct. 1, 1947 (499).

Watchmakers then engaged as such who did not apply for a certificate of registration within six months after the enactment of Laws 1943, Chapter 474, must now take an examination in order to obtain a certificate of registration. OAG Feb. 1, 1950 (499).

A watchmaker in good standing, registered and licensed in another state, and who although engaged in watchmaking in that state for two years immediately preceding his application had been licensed for less than two years, may obtain a certificate of registration in Minnesota without examination. OAG Aug. 31, 1950 (499).

## MEMBERS OF ARMED FORCES

### 326.55 NONPAYMENT OF LICENSE FEES

The provisions of section 326.55, relating to renewal of licenses and registration certificates by members of the armed forces or employees of the United States, its

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agencies and contractors are not affected by the President's Proclamation No. 2714, proclaiming a cessation of hostilities as of December 31, 1946. OAG Nov. 24, 1948 (310).

Section 326.55 has not been amended or repealed and is still in effect; and the registrants are exempt from payment of renewal fees if they are still in the armed service of the United States, or employed outside of the 48 states and the District of Columbia as a civilian employee engaged in national defense work. OAG Feb. 16, 1948 (310).

Provision for the exemption of soldiers and sailors from payment of renewal and registration fees is in force and effect as of Jan. 5, 1951. OAG Jan. 5, 1951, (310).

## 326.56 LICENSES, CERTIFICATES OF REGISTRATION; RENEWALS

HISTORY. 1951 c 301 s 1, 2.

Members of the armed forces of the United States and certain persons employed outside the United States in an employment essential to the prosecution of any war or any national defense are exempted from the payment of certain license fees, provided they come within the provisions of section 326.56. OAG March 31, 1952 (310).

## CHAPTER 327

### HOTELS, PUBLIC RESORTS

#### HOTELS

##### 327.07 FRAUD

HISTORY. 1874 c 52 s 3; 1875 c 111 s 1; GS 1878 c 124 s 23; Penal Code s 317; GS 1894 s 6611, 7999; 1905 c 325 s 1; RL 1905 s 5164; 1919 c 511 s 6; MS 1927 s 7318, 10548.

Obtaining meals in a private residence without paying therefor is not a violation of section 327.07. OAG Dec. 5, 1949 (133-B-35).

##### 327.08 PROOF OF FRAUD

HISTORY. 1919 c 511 s 7; GS 1923 s 7319, 10459; MS 1927 s 7319, 10459.

##### 327.09 EQUAL RIGHTS IN HOTELS

HISTORY. 1885 c 224 s 1, 2; GS 1878 Vol. 2 (1888 Supp) c 124 s 203, 204; GS 1894 s 8002, 8003; 1897 c 349; 1899 c 41; RL 1905 s 2812; GS 1913 s 6082; GS 1923 s 7321; MS 1927 s 7321; 1943 c 579 s 1.

Constitutionality of the proposed Minnesota Fair Employment Practices Act. 32 MLR 349.

Segregation and the Equal Protection Clause. Brief for the Committee of Law Teachers Against Segregation in Legal Education filed in *Sweatt v Painter*, 358 US 865, 70 SC 153. 34 MLR 289.

Equal protection; racial discrimination in urban redevelopment. 34 MLR 334.

Racial segregation in the use of athletic and recreational facilities. 36 MLR 399.

The Negro in the Supreme Court. 35 MLR 625.

Racially restrictive covenants. 35 MLR 625.