

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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tations and provisions of Chapter 47, Laws of 1929, and until modified or revoked by said county board or Poor Commission as provided by said Chapter 47, Laws of 1929 as by this act amended. (Laws 1929, c. 47, §20a, added Apr. 9, 1931, c. 138, §13.)

TOWN SYSTEM

§3186. Relief and transportation.

Authorizes a town to convey a pauper, not having a settlement therein, to the place of his settlement only if he has one in this state. *Litchfield v. M.*, 233NW804. See *Dun. Dig.* 7431.

City was liable for medical services performed for prisoner at request of chief of police in an emergency if the prisoner was an indigent person. *Op. Atty. Gen.*, Mar. 14, 1929.

Subd. 2 of this section is not amended by implication by Laws 1925, c. 378, §1 [§§3161-1 to 3161-5]; the latter act only providing method for determination of settlement. *Op. Atty. Gen.*, Dec. 21, 1929.

This section, though not expressly repealed, is largely superseded by the juvenile court act, and in any event it does not contemplate expenditures by the county, but the placement of children in homes for support. *Op. Atty. Gen.*, Jan. 13, 1930.

The liability for the care of a pauper who has no legal settlement in the state rests upon the county in which the town where the pauper becomes a public charge is located. *Op. Atty. Gen.*, Mar. 17, 1931.

A town board has no authority to purchase land for use by paupers, nor to expend public funds or incur public indebtedness for that purpose. *Op. Atty. Gen.*, May 25, 1931.

§3194. Duty of auditor—Poor fund.

This section applies alone to the fund mentioned in 3193 arising on change from county to town system and does not prevent transfer of funds received from other sources as provided by §1053. *Op. Atty. Gen.*, March 24, 1930.

§3195. Counties to pay portion, etc.

Litchfield v. M., 233NW804; note under §3186.

Village may file claim against county and include therein separate charges for several years, it not being necessary to file a claim each year. *Op. Atty. Gen.*, June 16, 1930.

Village cannot recover from county for cash paid to a pauper.—*Id.*

If village has not been separated from town, then the valuation of all property in the township, including the property in the village, is to be taken into consideration for determining the taxable value of the property of the township. *Op. Atty. Gen.*, Mar. 10, 1931.

Town board may file its application with county auditor at any time. *Op. Atty. Gen.*, Mar. 10, 1931.

County board is authorized to inquire into the necessity for the relief granted by a town and the expense incurred in determining whether or not the statement received from the township clerk is correct, but the determination of the town board is conclusive. *Op. Atty. Gen.*, Mar. 10, 1931.

The terms of this section are mandatory. *Op. Atty. Gen.*, Mar. 10, 1931.

Expense incurred by town in caring for a nonresident pauper should be made under §3186 (2). *Op. Atty. Gen.*, Mar. 17, 1931.

COUNTIES EXCEEDING 75,000

§3199. Tax levy for poor purposes.—On or before October 1, in each year, such board shall determine by resolution the amount of tax to be levied for the ensuing year for the support of the poor, the maintenance of the poor-house and other places provided for the reception of the poor, and the erection of any buildings or improvements, and the adoption of such resolution shall constitute a levy on the property taxable in the county of the amount named therein; but the amount so levied for all purposes, except for the erection or repair of buildings, shall not exceed an amount equal to one mill on each dollar of assessed valuation. On or before October 5, thereafter, the board shall file a certified copy of such resolution with the county auditor, who shall enter the amount upon the tax lists. Such tax, when collected, shall be credited to the county poor fund. (As amended Apr. 25, 1931, c. 355.)

Laws 1931, c. 60, amends Laws 1917, c. 187, §§1-4, relating to poor and hospital commissioners in counties having not less than 80 congressional townships and assessed valuation of from \$20,000,000 to \$50,000,000.

CHAPTER 16

Intoxicating Liquors

§3200. Definition of intoxicating liquors.—“Wherever used in this act the terms “intoxicating liquor” and “liquor” shall include and mean ethyl alcohol and any distilled, fermented, spirituous, vinous or malt liquor or liquid of any kind potable as a beverage whenever any of said liquors or liquids contain one-half of one per cent or more of alcohol by volume: and shall also include and mean any liquor or liquid of any kind potable as a beverage which is in fact intoxicating. If the Congress of the United States shall hereafter by a valid act define the words “intoxicating liquors” as used in Article XVIII of the constitution of the United States of America, then such definition, from the time such act of the Congress becomes operative shall be the definition thereof under this section. In any action or proceeding under this act, civil or criminal, the fact that any such liquor or liquid which is potable as a bev-

erage will, when drunk, produce an intoxicating effect, shall when established, be proof that such liquor or liquid contains one-half of one per cent or more of alcohol by volume and is intoxicating within the meaning of this act; the terms “sell” and “sale” shall include all barters, gifts and all means of furnishing liquor in violation or evasion of law; and the word “physician” shall include and mean any physician, surgeon, dentist or veterinarian, duly licensed to practice and practicing as such within this state, and no other person; the word “pharmacist” shall include and mean only any duly licensed and registered pharmacist or druggist actually carrying on business as such in good faith within this state; the word “person” shall include and mean natural persons and corporations whether acting by themselves or by servant, agent or employe; words of singular number shall include their plurals, and words

of masculine gender shall include the feminine or neuter as the case may be.

Wherever an address or location is required to be given in this act, it shall be held and construed to require the giving of the state, county, town, village or city, street and street number of the residence, place or place of business as the case may be.

"Nuisance" shall include the premises and every place where liquor in any quantity is manufactured or sold or kept or had for sale, or where any order therefor is taken, received or solicited contrary to the constitution or law of the state or of the United States, or where there is any still, apparatus, implement, machine, device, contrivance, utensil or thing or any tablet, compound, substance or matter or material of any kind or nature whether liquid or solid, or any formula, receipt or direction, any of which is apparently designed or intended for use or used therein for or in or in connection with the manufacture or sale of intoxicating liquor or any violation of the constitution or law of this state or of the United States relating to liquor, or where any of the things herein specified are kept, had or possessed or any act whatever done, in violation of any provision or part of the constitution or law of this state or of the United States relating to intoxicating liquor, and all liquor in every such place and every bar, bar fixture, vessel, jug, container or receptacle of any kind, and every still or other thing of any kind herein before mentioned any of which is apparently designed or intended for use or used therein for or in or in connection with the manufacture or sale of intoxicating liquor, or any violation of any provision or part of the constitution or law of this state or of the United States relating to intoxicating liquor. Any person who in any way assists in creating, keeping or maintaining a nuisance, or who sells any liquor, liquid or any tablet, compound, substance or matter or material of any kind or any formula, recipe or direction, or any still, apparatus, implement, machine, device, contrivance, utensil, or thing of any kind with knowledge or reason to believe that the same is to be used or intended for use for or in or in connection with a nuisance or the creation, keeping or maintenance thereof, or who knowingly permits any premises or place owned, managed or controlled by him to become or remain a nuisance, shall be held to be aiding in such nuisance.

The term "wholesale druggist" as used in this act is hereby declared to mean one who in good faith deals in drugs, chemicals and medicines in large quantities and who sells such drugs, chemicals and medicines chiefly to retailers thereof, who in turn retail the same in small quantities to the consumers (As amended Apr. 23, 1931, c. 305, §1.)

5. Indictment.

Complaint held not sufficient to sustain conviction for maintaining a nuisance. 171M295, 213NW909.

174M457, 219NW770.

Indictment charging maintenance of a liquor nuisance, held sufficient. 177M278, 225NW20.

6. Evidence.

Evidence held to warrant conviction for maintenance of a liquor nuisance. 177M278, 225NW20.

Judicial notice is taken that moonshine is an intoxicating beverage. The word "potable" means drinkable. 177M500, 225NW431.

§3201. Manufacture, sale and transportation prohibited.

2. Manufacture.

Conviction for manufacture of intoxicating liquor cannot stand, where there is no evidence that the liquor was either intoxicating or potable as a beverage. 171M367, 214NW60.

3. Possession.

Evidence held sufficient to support conviction for unlawful possession of intoxicating liquor. State v. Goldberg, 236NW309. See Dun. Dig. 4946.

4. Transportation.

Evidence held to sustain conviction. 179M187, 288NW615.

Evidence held not to sustain a conviction of the unlawful transportation of liquor. State v. Novak, 181M574, 233NW309. See Dun. Dig. 4946.

Evidence held to sustain conviction of unlawful transportation. 181M303, 232NW335. See Dun. Dig. 4946.

5. Sale.

In prosecution for sale of liquor to a minor court properly instructed that evidence of prior conviction of defendant's witness was admitted only as bearing on his credibility. 171M173, 213NW923.

Evidence held to sustain conviction for sale to minor. 171M429, 214NW270.

Evidence held to support finding of intoxicating quality and sale of liquor. 172M76, 214NW474.

That defendant had intoxicating liquor in possession for sale may be proved without offering the liquor in evidence. 172M130, 214NW778.

Evidence justified finding of guilty. State v. Trisko, 177M518, 225NW426.

6. Indictment.

Oral complaint for manufacture held sufficient. 171M292, 213NW910.

Under an information charging sale of "moonshine alcohol" conviction was proper on evidence of sale of "moonshine whisky." State v. Viering, 175M475, 221NW681.

Indictment may be amended to show prior conviction. Op. Atty. Gen., Dec. 5, 1929.

7. Evidence.

Evidence of similar offenses held properly admitted. 171M429, 214NW270.

Testimony that liquor was moonshine whisky was sufficient to sustain finding that it was potable. 171M437, 214NW652.

Evidence, held insufficient to support conviction for possession of liquors. State v. Keefe, 180M124, 230NW257(1).

§3208. Affidavit to be made.

Fees collected under this section are to be paid into the county treasury in counties where a definite salary has been provided for the clerk of the district court. Op. Atty. Gen., Jan. 18, 1930.

§3208-1. Definitions.—Wherever used in this Act the terms "intoxicating liquors" and "liquor" and the terms "sale" and "sell" and the term "pharmacist" shall be given the same meaning as is prescribed therefor by Section 3200 of Mason's Minnesota Statutes for 1927. (Act Mar. 23, 1931, c. 83, §1.)

§3208-2. Master of vessel may dispense liquor in certain cases.—Whenever the master of a vessel operating on the Great Lakes within the territorial waters of the United States shall procure and shall have authority to purchase intoxicating liquors for use for medicinal purposes on his vessel from the proper federal authorities and has obtained

and has a certificate of medicinal need for liquor for the purposes herein mentioned, from a medical officer of the Public Health Service of the United States, all in compliance with the laws of the United States relating to intoxicating liquors and the regulations duly adopted pursuant thereto in respect to such purchases, in force when this Act shall go into effect, and has in all particulars strictly complied with said laws of the United States and said regulations, it shall be lawful for any pharmacist in this state, upon presentation to him of an affidavit by such master as herein provided and required, to sell intoxicating liquor to such master to the extent and in the amount and for the purposes allowed by such certificate of medicinal need and specified in said affidavit, but not otherwise. Such affidavit shall be in form and substance substantially as follows: .

I, being first duly sworn on oath depose and say that I am the master of a vessel operating on the Great Lakes within the territorial waters of the United States; that I have procured and have in my possession authority to purchase intoxicating liquors for use for medicinal purposes on such vessel from the proper federal authorities and have obtained and have a certificate of medicinal need for intoxicating liquors for such use from a medical officer of the Public Health Service of the United States, all in compliance with the laws of the United States, relating to intoxicating liquors and the regulations duly adopted pursuant thereto; that I have complied with all such laws of the United States and all such regulations; that my address is (name location), that I desire to purchase (state precisely the amount and kind of liquor), for use for medicinal purposes on said vessel; that I will not use such liquor for any other purpose nor sell the same nor permit any other person so to do.

Subscribed and sworn to before me this ... day of
.....
Notary Public

(Act Mar. 23, 1931, c. 83, §2.)

§3208-3. Affidavits to be cancelled and filed.—Every affidavit upon which any such sale of liquor is made as provided herein shall at the time of such sale be taken from the purchaser of the liquor by the seller thereof and by such seller cancelled, kept and filed in compliance with Section 3208 Mason's Minnesota Statutes for 1927; and the Clerk of the District Court shall number, index, file, enter, keep and preserve in his office all such affidavits in the same manner, for the same length of time and subject in all respects to the same provisions of law as are prescribed by said Section 3208 of said Statutes for other affidavits therein mentioned. (Act Mar. 23, 1931, c. 83, §3.)

§3208-4. Penalties for violation.—Any person who shall wilfully fail or neglect to perform any duty imposed by this Act for which no other penalty is prescribed by law, shall upon conviction thereof for a first offense be punished by imprisonment in the county jail

for not less than 30 days or not more than 90 days or by a fine of not less than \$50 nor more than \$300, and for a second and each subsequent offense shall be punished by imprisonment in the county jail for not less than 60 days nor more than six months, and by a fine of not less than \$100 nor more than \$500. (Act Mar. 23, 1931, c. 83, §4.)

§3209. Prosecution.

It is not mandatory upon county attorney to institute abatement proceedings where persons have been convicted in a municipal court for violation of city liquor ordinances. Op. Atty. Gen., June 15, 1931.

§3214. Convictions.

Evidence held to warrant conviction for maintenance of a liquor nuisance. 177M278, 225NW20.

§3220. Search warrants.

It would not have been prejudicial error to permit introduction of liquor in evidence though it was obtained without a warrant. 172M130, 214NW778.

§3221. Destruction of liquor—Disposition of proceeds.—If the defendant in any criminal action be convicted, the liquor and every tablet, compound or substance, and all matter and material of any kind, and every formula, recipe, or direction, and every still, apparatus, implement, machine, device, contrivance or utensil found on the premises, any of which constitutes, or is designed or intended for use or used for or in, or in connection with the nuisance or with the commission of the offense charged and for which the defendant was convicted, shall be destroyed by the officer seizing the same, and the salvage from any article so destroyed, and all other articles seized constituting or designed or intended for use or used for or in, or in connection with the nuisance or with the commission of the offense charged for which the defendant was convicted, shall be forfeited, and shall be sold by the officer as upon execution, and all moneys paid into the county treasury of any county in this state on account of the sale of salvage and other articles under the provisions of this section shall be placed in the law enforcement fund of the county. (As amended Mar. 28, 1929, c. 109, §1.)

§3225. Penalties for violations.

1. Sentence.

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213 NW900.

2. Indictment and information.

Indictment charging maintenance of a liquor nuisance, held sufficient. 177M278, 225NW20.

Indictment may be amended to show prior conviction. Op. Atty. Gen., Dec. 5, 1929.

§3230. Duties of officers—Seizure of liquor, etc.—Whenever any sheriff, deputy sheriff, constable, marshal, policeman or other peace officer shall discover any person in the act of transporting liquor within this state, in violation of the constitution, or law of this state, or of the United States, such officer shall seize any wagon, buggy, automobile, or any car or both, vessel or water or air craft, or vehicle or conveyance, or means of conveyance of any kind, wherein or whereby any

such liquor is being so unlawfully transported, and if such officer shall find any intoxicating liquor being so transported in violation of the constitution or law of this state or of the United States, it shall be his duty to seize and hold the same and all thereof, subject to the order of the court wherein the cause is triable, and to seize and hold, subject to the order of said court, any such wagon, buggy, automobile, car, boat, vessel, water or air craft, vehicle or conveyance or means of conveyance of any kind, together with any animal or animals used for or in, or in connection with any such unlawful transportation, and to immediately arrest, and as soon as possible make proper complaint in any court having jurisdiction against any person or persons in charge of the liquor or property seized or any thereof, duly charging such unlawful transportation; and such officer shall also make and file with said court a separate complaint against such property other than liquor, describing the same and charging the use thereof in the unlawful transportation of intoxicating liquor, specifying substantially the time and place of such unlawful use. Such officer shall also make an inventory of such property and forthwith file the same with said court and serve a copy thereof on the defendant or person in charge of such property at the time of the seizure, if any. If the person so arrested shall be acquitted, the court shall dismiss the claim against such property and order the same returned to the person or persons legally entitled thereto. Upon conviction of any person so arrested or upon adjudication by the court that the person charged with transporting such liquor is a fugitive from justice, the court shall order all liquor so seized and the containers thereof destroyed and shall forthwith issue an order directed to any person known or believed to have any right or title or any interest in or lien upon any such property other than liquor, and the persons unknown claiming any such right, title, interest or lien, describing such property and stating that the same was seized and that a complaint against the same, charging the use thereof in the unlawful transportation of intoxicating liquor has been filed with the court, and requiring such persons to file with the clerk of said court their answer to said complaint setting forth any claim they may have to any right or title to or interest in or lien upon any such property, within ten (10) days after the service of such order as herein provided, and notifying them in substance that if they fail to so file their answer within said time such property will be ordered sold upon execution and proceeds of such sale paid into the treasury of the county; and said court shall cause said order to be served upon any such person known or believed to have any such right, title, interest or lien as in case of a summons in a civil action, and upon unknown persons by publication as provided by Sections 7737 and 7738 of the General Statutes of Minnesota for 1913 for a summons in a civil action. If no answer is filed as, and within the time herein prescribed, the court shall, upon affidavit by the clerk of said court, being filed in his office setting forth such fact, order such property sold as upon execution

and proceeds of such sale after deducting the expense of keeping the property and fees and costs of sale, paid into the county treasury of the county where the seizure occurred; provided that the court for cause extend the time to answer for not to exceed ten (10) days. If answer is filed as and within the time herein provided, the court shall fix a time for hearing, which shall be not less than ten (10) nor more than thirty (30) days after such time for filing answer expires. At the time so fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court without a jury as other civil actions. It shall be the duty of the county attorney of the county wherein the case is triable, to appear at such hearing in support of the complaint against said property and prosecute said action in behalf of the state. If the court shall find that said property or any part thereof was used for or in connection with the transportation of intoxicating liquor in violation of the constitution or law of this state or of the United States, he shall order the property so unlawfully used sold as upon execution unless the owner shall show to the satisfaction of the court that he had no notice or knowledge or reason to believe that said property was used or intended to be used in the unlawful transportation of intoxicating liquor. The officer making any such sale, after deducting the expense of keeping the property, the fee for seizure and the costs of the sale shall pay all liens according to their priority which are established at said hearing as being bona fide and as having been created without the lien on it having any notice or knowledge that any such property was being used for or in connection with the unlawful transportation of liquor, and shall pay the balance of the proceeds into the county treasury of the county where such sale is made. All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. One-half of all moneys paid into the county treasury of any county in this state on account of the seizure and sale of property under the provisions of this section shall be placed in the law enforcement fund of the county, and may be used for law enforcement purposes on order of the district court of the county in connection with the work of the county attorney of such county in securing evidence of law violations. Provided that before any seizure is made hereunder, the officer making the same shall disclose his authority as such officer. (As amended Mar. 28, 1929, c. 109, §2.)

§3235. Municipalities.

Complaint held insufficient to support conviction for maintaining a nuisance in violation of ordinance. 171M295, 213NW909.

Oral complaint for manufacture held sufficient. 171M292, 213NW910.

Evidence sustained conviction for manufacture in violation of ordinance. 171M292, 213NW 910.

§3238-2½. Selling or giving away poisonous liquor a gross misdemeanor.—Any person who shall sell or give away for beverage purposes any poisonous liquor or liquid consisting of or that contains methyl alcohol,

denatured alcohol, denaturing material, or any other poisonous substance capable of causing serious physical or mental injury to any person who may drink the same shall be guilty of a gross misdemeanor. (Act Apr. 19, 1929, c. 249, §1.)

§3238-2 ½ a. Definitions.—The terms "sell" and "sale," and the term "liquor" as used herein shall have the same meaning as is prescribed therefor by Section 1 of Chapter 455 of the General Laws of Minnesota of 1919 [§3200] and acts amendatory thereto, and

the term "poisonous" shall be interpreted as meaning "a substance that when taken into the human system acts in a noxious manner by means not mechanical, tending to cause death or serious physical or mental injury." (Act Apr. 19, 1929, c. 249, §2.)

§3238-2 ½ b. Application.—Nothing in this act shall be held or construed to repeal or in any way modify, amend or affect any existing statute in this state relating to intoxicating liquor. (Act Apr. 19, 1929, c. 249, §3.)

CHAPTER 16A

Cigarettes

§3244. Written application to be filed.

A licensee having several stands for the sale of cigarettes in a building designed for a single purpose and under a single control is not required to obtain more than one license; and in the case of a club the same rule would apply whether sales were made to members of the club or to outsiders. Op. Atty. Gen., March 1, 1930.

§3248. Disposition of cigarette license fees.

—The fees collected under the provisions of

this act shall be paid into the state treasury by the dairy and food commissioners. The state treasurer shall transmit ninety per cent of such license money annually to the treasurer of the city, village or township from which the license is issued. The remaining ten per cent shall be credited to the General Revenue fund. (As amended Apr. 23, 1929, c. 291, §1.)

CHAPTER 16B

Athletic Commission

§3252. Commission to elect a secretary.

State Athletic Commission could not validly give a bonus to the secretary of the commis-

sion as reimbursement for expenses incurred nor "in recognition of the efficiency in which he has handled the affairs of the commission." Op. Atty. Gen., June 2, 1931.

CHAPTER 17

Illegitimate Children—Bastards

§3261. Complaint—Where filed—Warrant.

At common law the father was not charged with the support of his illegitimate child, and the bastardy statute charges the father with the support of such child and furnishes the only remedy. 175M547, 221NW911.

Husband and wife are competent to give evidence that the former is not the father of a child of the wife conceived before the dissolution of the marriage by divorce. State v. Soyka, 181M533, 233NW300. See Dun. Dig. 10312.

§3265. Trial—Exclusion of public, etc.

Verdict in bastardy case held not sustained by evidence. 173M294, 217NW118.

Evidence held sufficient to sustain a conviction. 173M627, 218NW110.

Where defendant was adjudged father of illegitimate child and was directed to pay certain sums for its support to a child welfare board which agreed to pay such sums to the plaintiff

for boarding and caring for the child, plaintiff could sue the welfare board for sums received by it. *Salvas v. R.*, 175M484, 221NW719.

Exclusion of evidence of intercourse with third person at indefinite prior time, held proper, and evidence of promise to marry during period of illicit relation was admissible. 179M80, 228NW335.

Evidence held to support conviction. 179M436, 229NW564.

§3268. Hearing—Judgment.

Conviction of bastardy, held free from error. 181M374, 232NW624. See Dun. Dig. 827.

§3270. Procedure—Warrant.

Indication by court that instructions given were requested by one of the parties, held error. 181M374, 232NW624. See Dun. Dig. 9776 (13).