

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



Edited by
WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR., Assistant Editor

CITER-DIGEST CO.
ST. PAUL, MINNESOTA
1931

corporation shall use in literature, advertising material or on shipping labels or otherwise the words "tested", "approved", "accredited" or "certified" in conjunction with either the word "state" or the word "Minnesota" or both of them as related to a poultry hatchery or a poultry breeding flock except under the authority of this act. (Act Apr. 25, 1931, c. 408, §8.)

§5460-15. May cancel certificates.—In his discretion, the secretary and executive officer of the Minnesota Poultry Improvement Board may cancel any certificate of accreditation or certification issued under the authority of his board, and likewise the secretary and executive officer of the State Livestock Sanitary

Board may cancel any certificate of testing, approval or accreditation issued under the authority of his board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor. (Act Apr. 25, 1931, c. 408, §9.)

Sec. 10 of the act makes an appropriation for fiscal year ending June 30, 1932.

§5460-16. Effective September 1, 1931.—This act shall take effect—and be in force from and after the first day of September, 1931. (Act Apr. 25, 1931, c. 408, §11.)

CHAPTER 30A

Inspection of Apiaries

§5461. State inspector—Deputies.

Determination by the appointing power on question of fact as to whether appointee has had such practical experience as to render him eligible as a practical apiarist, will be binding on the courts in the absence of a clear abuse of judicial discretion. Op. Atty. Gen., June 10, 1931.

§5471. Compensation of inspector and deputies.

Deputy inspectors are entitled to be reimbursed for expenses incurred in the performance of their duties. Op. Atty. Gen., June 10, 1931.

CHAPTER 31

Inspection of Steam Vessels and Boilers

The court's charge that the defendant was not responsible for the arrival of the corn at Buffalo in a damaged condition, unless its negligence caused the damage, was sufficient to relieve defendant of responsibility for damage due to the propensity of the corn to sweat and heat, if the sweating and heating occurred without negligence on its part. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(14), 9002.

Unseaworthiness is not confined to faults, or omissions in the construction of the vessel, but may arise out of a fault in the conduct of defendant in relation to the vessel and its equipment, including proper manipulation of hatches to afford ventilation. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 9002.

The damage to plaintiff's property occurred prior to the commencement of the voyage, and the Harter Act (Mason's USCA, Tit. 46, §§190-195), did not apply or relieve defendant of liability. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 9002.

It was defendant's duty as bailee to exercise reasonable care to ascertain the characteristics of the cargo it proposed to store and transport.

Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(10).

In every contract of affreightment by water, unless otherwise expressed, there is an implied warranty of the seaworthiness of the ship, not only of reasonable fitness to meet the ordinary perils of the sea, but seaworthiness as respects the particular cargo to be transported, including stowage as respects seaworthiness in regard to the cargo. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 9002.

The burden of proof was upon the bailee to show itself free from negligence causing damage to a cargo of corn which it stored for the winter in its ship at Milwaukee and transported to Buffalo upon the opening of navigation. Rustad v. Great Northern Ry. Co., 122M453-456, 142 NW727, followed and applied. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(14), 9002.

Evidence held to sustain finding that negligence of steamship company in ventilation and stowage of corn and its failure to remove snow from deck caused damage to cargo. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(14), 9002.

CHAPTER 31A

Inspection and Regulation of Aircraft

UNIFORM STATE LAW FOR AERONAUTICS

§5494-7. Definitions.—In this act "Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed

by the rules regarding water navigation; while being operated through the air otherwise than immediately above water, it shall be treated as an aircraft.

"Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Passenger" includes any person riding in

an aircraft but having no part in its operation. (Act Apr. 17, 1929, c. 219, §1.)

§5494-8. Sovereignty of air in state.—Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state. (Act Apr. 17, 1929, c. 219, §2.)

§5494-9. Air rights of surface owner.—The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in Section 4 [§5494-10]. (Act Apr. 17, 1929, c. 219, §3.)

§5494-10. Regulation of flight of aircraft.—Flight in aircraft over the lands and waters of this state is lawful, unless at such low altitudes as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the aeronaut shall be liable as provided in Section 5 [§5494-11]. (Act Apr. 17, 1929, c. 219, §4.)

§5494-11. Owners of aircraft liable for injuries.—The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury or damage is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property damaged. If the aircraft is leased at the time of the injury or damage to person or property, both the owner and lessee shall be liable, and they may be sued, jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the damaged property, shall have a lien on the aircraft causing the injury or damage to the extent of such injury or damage caused by the aircraft or objects falling from it. (Act Apr. 17, 1929, c. 219, §5.)

§5494-12. State law to govern as to crimes, etc., in aircraft.—The liability of the owner of one aircraft, to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air shall be determined by the rules of law applicable to torts on land. (Act Apr. 17, 1929, c. 219, §6.)

§5494-13. Same—law governing.—All crimes, torts, and other wrongs committed by or against an aeronaut or passenger while in flight over this state shall be gov-

erned by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime or other wrong by or against the owner of such aircraft shall be determined by the laws of this state. (Act Apr. 17, 1929, c. 219, §7.)

§5494-14. Contractual relations same as on land or water.—All contractual and other legal relations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath. (Act Apr. 17, 1929, c. 219, §8.)

§5494-15. Aircraft to be equipped with parachutes.—Each occupant of any aircraft engaged in acrobatic or stunt flying shall be equipped with a parachute, and any aeronaut so operating such aircraft without the occupants being so equipped shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §9.)

§5494-16. Certain acts a misdemeanor.—Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this state, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §10.)

§5494-17. Certain acts a misdemeanor.—Any aeronaut or passenger who, while in flight within this state, shall intentionally kill or attempt to kill any birds or animals excepting those on which the state pays a bounty, shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §11.)

§5494-18. Interpretation and construction.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and to harmonize, as far as possible with federal laws and regulations on the subject of aeronautics. (Act Apr. 17, 1929, c. 219, §12.)

§5494-19. Uniform state law for aeronautics.—This act may be cited as the uniform state law for aeronautics. (Act Apr. 17, 1929, c. 219, §13.)

§5494-20. Application.—The provisions of this act shall not apply to naval or military aircraft whether owned by or used in the service of this state or the United States. (Act Apr. 17, 1929, c. 219, §14.)

§5494-21. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 17, 1929, c. 219, §15.)

UNIFORM AIR LICENSING AND AIR TRAFFIC ACT

§5494-22. Definitions.—In this act, the term "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air,

except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

The term "Public Aircraft" means an aircraft used exclusively in the governmental service of the United States or of any state or territory thereof.

The term "Civil Aircraft" means any aircraft other than a public aircraft used as provided in Section 2, Subdivision B of the Federal Air Commerce Act of 1926 [Mason's U. S. Code, Supp. No. 1, Title 49, §§171 to 184].

The term "Airmen" means any individual (including the person in command, and any pilot, mechanic or member of the crew) who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling or repairing of aircraft.

The term "Person" means an individual, a partnership, or two or more individuals having a joint or common interest, or a corporation.

The term "air commerce" means transportation in whole or in part by aircraft of persons or property for hire, navigation of aircraft and furtherance of a business, or navigation of aircraft from one place to another for operation in the conduct of a business. (Act Apr. 23, 1929, c. 290, §1.)

Does not have the effect of withdrawing aeroplanes from taxation as personal property. Op. Atty. Gen., Mar. 30, 1931.

§5494-23. United States air commerce act to apply.—It is hereby declared that the policy, principles and practices established by the United States Air Commerce Act of 1926 [Mason's U. S. C. A., Supp. No. 1, Title 49, §§171 to 184], and all existing amendments thereto, are hereby adopted and extended and made applicable, mutatis mutandis, to cover all air traffic in this state, so far as not covered by federal law at any time. (Act Apr. 23, 1929, c. 290, §2.)

§5494-24. Registrar of motor vehicles to administer act.—The registrar of motor vehicles shall administer the provisions of this act, and for such purpose is authorized to make such regulations as are necessary to execute the functions vested in him by this act, including air traffic rules, which regulations shall conform to and coincide with, so far as possible the provisions of the Air Commerce Act of 1926, and existing amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations and air traffic rules issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §3.)

§5494-25. Aircraft must be licensed.—No civil aircraft shall be flown in air commerce in this state unless such aircraft either is licensed as provided by Section 6 [5494-27] of this act, or shall have an appropriate existing license under federal law. (Act Apr. 23, 1929, c. 290, §4.)

§5494-26. Pilots must be licensed.—No person shall act as an airman of any civil aircraft when such aircraft is flown or operated in this state unless he shall have either

a license as provided in Section 7 [5494-28] of this act, or an appropriate existing license under federal law. (Act Apr. 23, 1929, c. 290, §5.)

§5494-27. Registrar to issue and revoke licenses.—The registrar of motor vehicles shall provide for the issuance and expiration; and for the suspension and revocation of licenses of civil aircraft, in accordance with the regulations promulgated by him, which regulations shall generally conform to and coincide with the provisions of the Air Commerce Act of 1926, and existing amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §6.)

§5494-28. To promulgate rules and regulations.—The registrar of motor vehicles shall provide for the issuance and expiration, and for the suspension and revocation of licenses as airmen to persons applying therefor in accordance with regulations promulgated by him, which regulations shall conform to and coincide with, so far as possible, the provisions of the Air Commerce Act of 1926, and amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §7.)

§5494-29. Fees for registration.—The registrar of motor vehicles shall collect fees as follows:

For the examination and tests of an applicant for an airman's license	\$10.00
For the examination and inspection of aircraft.....	10.00
For the issuance of certificate of registration for every aircraft..	2.00

which fees shall be paid to the state treasury. (Act Apr. 23, 1929, c. 290, §8.)

§5494-30. Not to apply to interstate commerce.—The provisions of this act shall not apply to civil aircraft or airmen while engaged exclusively in commercial flying constituting an act of interstate or foreign commerce, nor to public aircraft. (Act Apr. 23, 1929, c. 290, §9.)

§5494-31. Violations—penalties.—Any person who acts as an airman for any civil aircraft when flown or operated in this state (except as in Section 9 provided) without holding an existing airman's license issued either in accordance with the provisions of this act or under federal law; or who flies or causes to be flown in this state any civil aircraft (except as in Section 9 [5494-30] provided) without an existing license for such aircraft issued either in accordance with the provisions of this act or under federal law; or who violates any provisions of this act or any rule or regulation promulgated hereunder shall be punishable by a fine or not more than \$100.00 or by imprisonment for not more than 90 days, or both. (Act Apr. 23, 1929, c. 290, §10.)

§5494-32. Licensed aircraft to be designated.—Every civil aircraft licensed by this

state shall have a letter "M" painted in one color in sharp contrast to the color of the aircraft on the lower surface of the right wing and the upper surface of the upper left wing, the top of the letter to be toward the leading edge, the height to be at least four-fifths of the mean chord; provided, however, that in the event four-fifths of the mean chord is more than thirty inches, the height of the letter need not be more but shall not be less than thirty inches. The failure to display the letter "M" as hereinbefore provided, or the unauthorized display thereof, is unlawful and every owner, operator, or lessee of said aircraft who violates this provision shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 290, §11.)

§5494-33. Construction.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. (Act Apr. 23, 1929, c. 290, §12.)

§5494-34. Title of act.—This act may be cited as the Uniform Air Licensing and Air Traffic Act. (Act Apr. 23, 1929, c. 290, §13.)

§5494-35. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 23, 1929, c. 290, §14.)

§5494-36. Effective November 1, 1929.—This act shall take effect from and after November 1st, 1929. (Act Apr. 23, 1929, c. 290, §15.)

MUNICIPAL FLYING FIELDS

§5494-37. Cities and villages may equip air fields.—The governing body of any city, village, or town in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft either within or without the limits of such cities, villages, and towns, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such city, village, or town. (Act Apr. 17, 1929, c. 217, §1.)

In cities of the first class, see §§1626-1 to 1626-16.

§5494-38. County board may acquire airports.—The board of county commissioners of any county in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of such counties, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county. That any power or authority granted to any county or other political subdivision of the state by the provisions of this act, may in any county of this state having at any time an area of over 5,000 square miles and a population of over 200,000 inhabitants be exercised in co-operation with the governing body of any other such political subdivi-

sion in such county, as well as separately, in order to carry into effect the powers herein granted, whenever the governing body or bodies of any such political sub-division shall determine it to be in the public interest. Any co-operative agreement entered into between the governing bodies of any two or more such political subdivisions, either for the carrying on or abandonment of any airport or landing field in such county shall be binding upon their respective political sub-divisions.

That any payments heretofore made by any such county having over 5,000 square miles of area and a population of over 200,000 inhabitants, to any other political sub-division of said county, is hereby legalized and declared valid in all respects; provided that no such county or political subdivision in such county shall, jointly or separately, have authority to spend in any calendar year more than \$50,000, in order to carry into effect the powers herein granted. Any such expenditures shall be included in, and shall not be in excess of, any limitations on expenditures of such political subdivision now fixed by law. (Laws 1929, c. 217, §2, as amended Apr. 25, 1931, c. 354.)

§5494-39. May exercise power of eminent domain.—Any lands acquired, owned, controlled, or occupied by such cities, villages, towns, or counties for the purpose enumerated in Sections 1 and 2 [§§5494-37, 5494-38] hereof shall and are hereby declared to be acquired, owned, controlled, and occupied for a public purpose and as a matter of public necessity, and such cities, villages, towns, or counties shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity. (Act Apr. 17, 1929, c. 217, §3.)

§5494-40. May acquire lands by gift, purchase, or otherwise.—Private property needed by any city, village, town, or county for an airport or landing field may be acquired by gift or by purchase if the city, village, town, or county is able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by the law under which the city, village, town or county is authorized to acquire real property for public purposes, other than street purposes, or, if there be no such law, in the manner provided for and subject to the provisions of the condemnation law. The purchase price or award for real property acquired for an airport or landing field may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds of the city, village, town, or county issued as hereinafter specified. (Act Apr. 17, 1929, c. 217, §4.)

§5494-41. May maintain and operate flying fields.—The governing body of any city, village, town, or county which has established an airport or landing field and acquired, leased, or set apart real property for such purpose may construct, improve, equip, maintain, and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance, and operation thereof, in any suitable office, board, or body of

such city, village, town, or county. The expenses of such construction, improvement, equipment, maintenance, and operation shall be a city, village, town, or county charge as the case may be. The governing body of any city, village, town, or county may adopt regulations and establish fees or charges for the use of such airport or landing field, or may authorize any officer, board or body of such village, city, town, or county having jurisdiction to adopt such regulations and establish such fees or charges, subject, however, to the approval of such governing body before they shall take effect. (Act Apr. 17, 1929, c. 217, §5.)

§5494-42. Annual appropriation.—The governing body of any city, village, town, or county to which this act is applicable having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such city, village, town, or county a sum sufficient to carry out the provisions of this act, not exceeding, however, the taxing limits now provided by law. (Act Apr. 17, 1929, c. 217, §6.)

§5494-43. Application.—The provisions of this act shall apply to all cities of the state, excepting all cities of the first class, including every city now or hereafter having and operating under a home rule charter adopted under, and pursuant to Section 36, of Article 4, of the State Constitution; provided, however, that this act shall not apply to any privately owned or controlled airport and aviation field. (Act Apr. 17, 1929, c. 217, §7.)

§5494-44. Bonds may be issued.—Any such city, village, town, or county is hereby authorized and empowered to issue its negotiable general obligation bonds for the purpose of acquiring, establishing, constructing, enlarging or improving such airport or landing field and a site therefor in the manner and within the limits prescribed by Chapter 10, General Statutes, Minnesota 1923, and Chapter 131, Laws of 1927 [§§1938-3 to 1938-13] for the issuance of bonds for the acquisition of other revenue producing public conveniences. Such bonds shall be sold in the manner prescribed by Section 1943, General Statutes 1923, as amended. The amount

of any such bonds at any time outstanding shall be included in computing the net debt of the city, village, town, or county issuing the same for the purpose of computing any limitation of its indebtedness prescribed by law or by its charter. (Act Apr. 17, 1929, c. 217, §8.)

§5494-45. Acts legalized.—The acquisition of property within or without the limits of any such city, village, or town for airports or landing fields, by purchase or gift, heretofore made by any such municipality, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective. (Act Apr. 17, 1929, c. 217, §9.)

§5494-46. May acquire air rights.—Where necessary in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this Act, the legislative bodies of counties, municipalities, and other political subdivisions of this State are hereby granted authority to acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided by law for the acquisition of the airport or landing field itself or the expansion thereof. (Act Apr. 20, 1931, c. 214, §1.)

§5494-47. May acquire for any term.—The legislative bodies of counties, municipalities, and other political subdivisions of this State are hereby authorized to acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and to place, operate, and maintain suitable lights for the nighttime marking of buildings, or other structures or obstructions interfering with the safe operation of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this Act. Such rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided by law for the acquisition of the airport or landing field itself or the expansion thereof. (Act Apr. 20, 1931, c. 214, §2.)

CHAPTER 32

Preservation of Game and Fish

Laws 1931, c. 186, ante, §§53-23a to 53-23l, creates a new department of conservation, to which is transferred the powers of the commissioner of game and fish.

PART I.—TITLE TO WILD ANIMALS:
TAKING: TRANSPORTATION

§5495. Title to wild animals—Taking.

The provisions of the game law are to be construed according to the fair import of their terms, viewed in the light of the purpose of the law. 177M483, 225NW430.

§5496. Ownership in state.

172M469, 215NW837; note under §5547.

§5497. Taking of wild animals restricted.

The game law does not permit the taking of waterfowl from an artificial blind constructed in public waters of a lake upon an artificial embankment. 177M483, 225NW430.

§5498. Manner of taking game.—Birds and quadrupeds protected by law shall be taken only in the daytime with a gun not larger in bore than a ten gauge fired from the shoulder, or with a bow and arrow, except that upland game birds and quadrupeds may be taken with a rifle or pistol. It shall be unlawful to use any kind or type of silencer on any firearm, or to own or possess any kind or