

CHAPTER 159—S. F. No. 435.

An Act to amend Sections 1, 13, 14, 15, 16, 23 and 25, Chapter 125, General Laws of 1911, entitled "An Act to provide for the preservation of forests in this state and for reforestation and for the prevention and suppression of forest and prairie fires; also repealing Chapter 22, Revised Laws 1905, and Sections 2505, 2506, 2507, 2508, 2510 and 2515, Revised Laws 1905; Chapters 82 and 310 of the General Laws of Minnesota for 1905; Chapter 182 of the General Laws of Minnesota for 1909; and all acts and parts of acts inconsistent with this act, prescribing penalties for violations of this act and appropriating money for the carrying out of its provisions."

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Composition of state forestry board.—That Section One (1) of Chapter 125, General Laws 1911, be and the same is hereby amended so as to read as follows:

"Section 1. There shall be a state forestry board, of nine members, composed of the director of the forestry school and the dean of the agricultural college of the university of Minnesota, and seven others appointed by the governor, for a term of four years and until their successors qualify. Two of said members shall be appointed upon the recommendation of the regents of the university () and one shall be appointed upon the recommendation of each of the following bodies: The state agricultural society, the state horticultural society, and the state game and fish commission—provided suitable persons be recommended by them to the governor not later than January 31st, of the year in which such terms expire. All vacancies shall be filled the same as the original appointments. The members now in office shall hold through the terms for which they were respectively appointed. So far as practicable, all such appointees shall be appointed with reference to their knowledge of, and interest in, the planting and cultivation of trees in prairie regions, the preservation of natural forests, the reforestation of denuded lands, and the protection of the sources of streams."

Sec. 2. State forester to provide other measures for immediate control of fires.—That Section 13 of Chapter 125, General Laws 1911, be and the same is hereby amended so as to read as follows:

"Section 13. When in the judgment of the state forester there is danger of the setting and spreading of fires from locomotive engines, he shall order any railroad company to provide patrolmen to follow each train throughout such fire patrol district or districts as he deems necessary to prevent fires. When the state forester has given a railroad company notice to provide such patrol after trains, the said railroad company shall

immediately comply with such instructions throughout the territory designated; and upon its failure so to do, the state forester may employ patrolmen with the necessary equipment to patrol the rights-of-way of said railroad, and the expense of the same shall be charged to the said railroad company, and may be recovered in a civil action in the name of the state of Minnesota, and in addition thereto, the said company shall be guilty of a misdemeanor.

The state forester may prescribe such other measures which are considered by him to be essential for the immediate control of fire.

It is also made the duty of any railroad company, acting independently of such state forester, to patrol its right-of-way after the passage of each train when necessary to prevent the spread of fires and to use the highest degree of diligence to prevent the setting and spread of fire, to cause the extinguishment of fires set by locomotives or found existing upon their respective rights-of-way, and for any violation hereof such railroad company, its officers and patrolmen shall be guilty of a misdemeanor, and be punished by a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00) and costs, and in addition thereto such railroad company shall be liable for all *expenses and damages* caused or permitted by it to be recovered in civil action."

Sec. 3. **Ash pans required on locomotives—Record to be kept of inspections, made under direction of forester—Regulations for railroad companies.**—That Section 14 of Chapter 125, General Laws of 1911, be and the same is hereby amended so as to read as follows:

"Section 14. Every company operating a railroad for any purpose shall equip and use upon each locomotive engine a practical and efficient *ash pan and spark arresting device*, which the master mechanic shall cause to be examined and the same shall be examined by the master mechanic or some employee each time before leaving the roundhouse, except when snow is on the ground. *A record shall be kept of such examinations in a book to be furnished by the railroad company for the purpose, showing:*

1. *The place and number of each engine inspected.*
2. *The date and hour of day of such inspection.*
3. *The condition of the said fire protective appliance and arrangements; and*
4. *A record of repairs made to any of the fire protective appliances. The said book to be open for inspection by the state forester or other authorized officer appointed by him.*

The master mechanic or employee making such examination shall be held responsible for the good condition of the same, but without relieving the company from its responsibility hereunder.

Any locomotive inspector appointed by the state forester is authorized to inspect any locomotive, donkey, traction or portable engine and all other engines and boilers operated in the vicinity of forest, brush or grass lands, and to enter upon any property for such purpose or where he may deem it necessary in order to see that all the provisions of this act are duly complied with.

Every such company shall keep its right-of-way clear of combustible materials, logs, poles, lumber and wood, except ties, material for shipment, and other material necessary for the maintenance and operation of the road, from March 15th to December 1st. During particularly dry and dangerous periods the state forester may prohibit any and all burning along part or all of railroad right-of-way for a definite period.

Every railroad company shall establish and maintain such firebreaks along the route of its railway as can be constructed and maintained at not excessive expense. The intention shall be to adjust the protective measures to the local conditions, and to make the expense proportionate to the fire risk and the possible damage.

Except when snow is on the ground, no donkey, traction or portable engine or other engines and boilers except locomotives shall be operated in the vicinity of forest, brush or grass lands, which do not burn oil as fuel, except they be provided with a practical and efficient ash-pan and spark arresting device.

No company shall permit any of its employees to leave a deposit of fire, live coals or ashes in the immediate vicinity of wood land or lands liable to be overrun by fire, and every engineer, conductor or trainman discovering a fire adjacent to the track shall report the same promptly to the agent at the first telegraph or telephone station reached by him, whose duty it shall be as representative of such company to at once take necessary steps to put out such fire.

Every such company shall give its employees particular instructions for the prevention and extinguishment of fires, and shall cause warning placards such as are approved by the state forester, to be conspicuously posted at every station in the vicinity of forest, brush and grass lands, and when a fire occurs on the right-of-way of its road, shall immediately concentrate such help and adopt such measures as shall be available for its extinguishment.

Every railroad company shall make such reports to the state forester as are deemed necessary by him of fires occurring on or adjacent to their respective rights-of-way.

Whenever any combustible material shall be left in the proximity of any railroad, either without proper fire protection or so as to constitute a fire menace to other property, it shall be the duty of the owner of such material, upon being notified in

writing by the state forester or any forest ranger as to the nature and extent of the protection required, to forthwith comply with all the terms of such notice so as to properly protect or remove such material.

Any company or corporation violating any provision of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) and costs of prosecution for each offense, and any railroad employee or other individual violating the same shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) and costs of prosecution, or by imprisonment in the county jail not exceeding ninety (90) days."

Sec. 4. Power of forester or rangers as to slashings.—That Section 15 of Chapter 125, General Laws, 1911, be and the same is hereby amended so as to read as follows:

"Section 15. Where and whenever in the judgment of the state forester or district ranger there is or may be danger of starting and spreading of fires from slashings and debris from the cutting of timber of any kind and for any purpose, the state forester or district ranger shall order the individual, firm or corporation, by whom the said timber has been or is being cut, () to dispose of the slashings and debris as he may direct. Where conditions do not permit the burning of the slashings and debris over the entire area so covered, the state forester may require the person, firm or corporation by whom the timber was cut, to dispose of such slashings and debris in such a way as to establish a safe fire line around the area requiring such protection, the said fire line to be of a width and of a character satisfactory to the state forester.

When any person, firm or corporation, shall have been notified by the state forester or district rangers to dispose of slashings and debris, either by entirely consuming the same or establishing a fire line sufficient for the protection of adjoining property, and fails to comply with such instructions, the said person, firm or corporation, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) and costs of prosecution for each violation thereof or failure to comply therewith.

When any such () slashings or debris are left *unattended* contrary to the instructions of the state forester or district ranger, the state forester, the district ranger or patrolman may go upon the premises with such force of men as may be necessary and burn such branches, slashings and debris, and the expense thereof shall be a lien upon the land on which they are situated and also upon the logs and other timber products cut

*upon said land, and enforced as liens are enforced for the improvement of real estate or personal property. An itemized statement duly verified by the oath of the state forester or district ranger of the amount of the costs of burning or otherwise disposing of such branches, slashings and debris, shall be filed in the office of the register of deeds of the county in which said timber was cut, and also in the office of the surveyor general of logs and lumber of the district in which said cutting was done, and the expense of burning or otherwise disposing of such branches, slashings and debris shall be a prima facie valid claim that may be collected from the person, firm or corporation who cut the wood or timber from which the said slashings and debris were made. Any moneys collected on account of such liens shall be paid into the state treasury and credited to the forest service fund.”**

Sec. 5. Public road contractor to pile and burn slashings—Duties of town or county officers.—That Section 16 of Chapter 125, General Laws 1911, be and the same is hereby amended so as to read as follows:

“Section 16. Any person or corporation who cuts or fells trees or bushes of any kind in clearing land for roadbed or right-of-way for any railroad, highway or trail shall in the manner and at the time as above prescribed burn the slashings and all combustible material except fuel and merchantable timber.

Any person or corporation who cuts or fells trees or bushes of any kind in clearing land for agricultural or pasturage purposes, or who in any way clears land, is prohibited from setting fire to the slashings, brush, roots or excavated stumps or other combustible material on such land and letting the fire run; the material must be disposed of pursuant to the regulations of the state forester.

Any contractor who enters into a contract for the construction of a public road, and which contract involves the cutting or grubbing of woods, standing timber, or brush from any part of the right-of-way of such road, shall pile all the slashings and debris cut or grubbed from the roadbed or right-of-way in the middle of such right-of-way, and shall burn and dispose of such slash and debris without damage to adjoining timber or woods, which burning shall be done in a manner and at a time satisfactory to the state forester; provided, however, that the foregoing provision shall not prevent the leaving of such trees along roads as will be useful for ornamental and shade purposes, and which will not interfere with travel.

Every contract made by or on behalf of any town or county board, which involves the cutting of any timber on the right-of-way of a public highway, shall provide in terms for compliance with the foregoing provision, but that the failure to include such provision in the contract shall not relieve said contractor from

the duty to burn and dispose of said slashings as aforesaid. No town or county officer shall execute any such contract on behalf of his town or county which does not provide in terms for compliance with the provisions of this section.

Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not less than *twenty (20) days* nor more than *ninety (90) days.*"

Sec. 6. County attorney to prosecute violations.—That Section 23 of Chapter 125, General Laws 1911, be and the same is hereby amended so as to read as follows:

"Section 23. No appeal shall be allowed from a judgment in justice's court in any prosecution under this chapter unless the person appealing shall, within the legal time prescribed, enter into a recognizance with two sufficient sureties, surety company or cash bail, in twice the amount of the fine and costs, to be approved by the justice, conditioned to appear before the district court on the first day of the general term thereof to be held in and for the same county, and abide the judgment of said court therein.

The justice may examine the proposed sureties under oath, and in such case shall make and keep a record of their answers in respect to the kinds and amount of their property that is not exempt from execution, and furnish a copy of the same to the state forester.

Whenever an arrest shall have been made for violation of any of the provisions of this chapter, or whenever information of such violation shall have been lodged with him, the county attorney of the county in which the offense was committed shall prosecute the accused with all diligence and energy."

Sec. 7. Certain fines to be paid into township, city or village funds.—That Section 25 of Chapter 125, General Laws 1911, be and the same is hereby amended so as to read as follows:

"Section 25. All moneys received as penalties for violations of the provisions of this act, less the cost of collection and not otherwise provided for, shall be paid into the treasury of the county in which the penalties for said violation of the provisions of this act were imposed; *provided, however, that fines collected for violations of this act, where prosecutions are instituted upon the complaint of township, city or village officers, duly appointed by the state forester as fire wardens, shall be paid into the treasury of the township, city or village where the offense was committed, to be credited to the "fire fund" of such township, city or village.*"

Approved April 2, 1913.