

with aircraft directly over crowds or assemblages of people, or over any city or village and operating aircraft over any city or village at so low a height that it may be impractical without power at any time to glide to a safe landing, are hereby prohibited and declared to be unlawful.

Sec. 4. **Fees.**—The fee for the certificate provided in Section 1 hereof shall be \$10.00, provided that every renewal certificate shall be issued for \$2.00. The fee for the pilot's license provided in Section 2 hereof shall be \$10.00. The fees received by the Adjutant General under this act shall be retained and disbursed by his department for the purpose of administering the provisions hereof.

Sec. 5. **Adjutant General to enforce provisions.**—The adjutant general is hereby charged with the enforcement of the provisions of this act.

Sec. 6. **Violation a misdemeanor.**—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor.

Approved April 25, 1925.

CHAPTER 407--H. F. No. 658.

An act codifying, revising and supplementing the laws relating to forestry and to forest and prairie fires; prescribing liabilities and penalties both civil and criminal; and repealing inconsistent acts.

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

Section 1. **Acts supplemental.**—This act shall be deemed and construed as a codification, revision and expansion of, and as supplementary to and taking the place of, the existing laws relating to forestry and to forest and prairie fires, including Chapter 125, General Laws of 1911, and acts amendatory thereof and supplementary thereto, Chapter 159, General Laws 1913, Chapter 325, Session Laws 1915, Chapter 32, Special Session Laws 1919, and Chapter 33, Special Session Laws 1919, but without abridging or destroying any rights, obligations, liabilities or penalties arising from or under any of said laws prior to the taking effect of this act.

This act shall apply only to the forest areas of this state. Every county now or hereafter having within its boundaries any tract or area of one thousand or more contiguous acres of standing or growing timber or of unbroken prairie land or of cut-over timber land not cleared or otherwise denuded of combustible or inflammable growth, is hereby declared to be a forest area within this act; and every other county is hereby declared not to be such forest area nor within this act. But in the prosecution of any civil or criminal action or proceeding under this act, it shall not be necessary to prove that any county comes within the purview of this act; but the contrary may be proven by any party to such action or proceeding.

This act may be cited as the Forestry Act.

Sec. 2. Definitions.—For the purpose of this act the following words and terms have the following meanings, to-wit:

(a) The word "board" means the State Forestry Board and its successors in authority by whatever name or title designated.

(b) The word "forester" means the State Forester and his successors in authority by whatever name or title designated.

(c) The word "person" means and includes a natural person acting either for himself or in any representative capacity, a corporation, a firm, a co-partnership, or an association of any nature or kind. The masculine shall include the feminine and the singular shall include the plural, and vice versa, wherever necessary to give full force and effect to all the provisions of this act.

(d) The word "timber" means and includes trees, saplings, bushes, and sprouts from which trees may grow, of every size, nature, kind and description.

(e) The term "forest" or "forest land" means and includes swamps, peat-bogs, cut-over lands, and every other area where timber (as defined in this act) grows or exists.

(f) The words or term "back-fire" means a fire intentionally started ahead of, or in the path of, an approaching forest or prairie fire for the purpose of burning back toward said forest or prairie fire so that when said two fires meet both will die out for lack of fuel.

Sec. 3. Forestry Board—Composition.—Until otherwise provided by law, the state forestry board shall consist of nine members composed of the director of the forestry school and the dean and director of the college of agriculture 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 appointive members shall be appointed upon the recommendation of the regents of the University and one each upon the respective recommendations of the state agricultural society, the state horticultural society, and the state game and fish commissioner, provided suitable persons shall have been so recommended to the governor not later than January 31 of the year in which such terms expire, or within ten days after any vacancy occurs during any term. All vacancies shall be filled in the same manner as the original appointments. So far as practical, all such appointees shall be interested in and have knowledge of the planting and cultivation of trees in prairie regions, the preservation of natural forests, reforestation, and protection of the sources of streams.

Sec. 4. Secretary—Compensation.—The board may appoint a secretary at a salary not to exceed eighteen hundred (\$1,800.00) dollars per annum, whose duties shall be prescribed by the board.

Sec. 5. Duties of board.—The board shall have the management of the state forests and of all other property acquired therefor,

supervise all matters of forest protection and reforestation and have charge of all moneys appropriated therefor or accruing therefrom, including the state forest fund and the forest service fund. It shall ascertain and observe the best methods of reforesting cut-over and denuded lands, foresting waste and prairie lands, preventing destruction of forests and lands by fire, administering forests on forestry principles, encouraging private owners to preserve and grow timber for commercial purposes, and conserving the forests around the head waters of streams and on the water-sheds of the state, and shall collect information regarding the timber lands owned by the state. Biennially and on or before the first Monday in December of each even-numbered year the board shall report its doings, conclusions, and recommendations, and any damage caused by forest and prairie fires and any trespassing upon state lands to the governor, which report shall be printed and distributed to the members of the legislature and otherwise as the board may direct.

Sec. 6. Officers of board—Organization—Chief forester.—The board shall elect a president and vice-president annually. It may appoint an executive committee on which it may confer authority to act for it in minor details which cannot conveniently be acted upon by the board. The board shall appoint a state forester, who shall be a trained forester, at a salary not to exceed four thousand (\$4,000) dollars per annum, and he shall be allowed necessary traveling and field expenses incurred in the conduct of his official duties. The office of the forester shall be at the state capitol, and the board is hereby authorized to employ such office assistants as may be necessary and to fix their compensation. The forester, with the approval of the board, may appoint an assistant forester and such other employes, outside of the office assistants, as may be necessary in carrying out the provisions of this act, and may fix the amount of their compensation; and the forester shall have the power to remove any subordinate officers and employes so appointed by him. He shall be authorized under the direction and approval of the board to purchase all necessary equipment, instruments, and field supplies. A full and accurate account of all receipts and expenditures incurred in the carrying out of the provisions of this act, with such vouchers and forms as may be approved by the state public examiner, shall be kept in a system of books prescribed by such examiner. The forester shall execute all rules and regulations issued by the board pertaining to forestry and forest protection within the jurisdiction of the state; have charge of the work of protecting all forests and lands from fire; shall investigate the origin of all forest fires, and prosecute all violators of this act; shall prepare and print for public distribution an abstract of the forest fire laws of Minnesota, together with such rules and regulations as may be formulated by the board. He shall prepare printed notices calling attention to the dangers from forest fires and cause them to be posted in conspicuous places, and shall

furnish same to the railroad companies, whose duty it shall be to post them in such places as he may direct.

Sec. 7. Duties of forester.—The forester shall become familiar with the location and area of all state timber and cut-over lands and prepare maps of state forests and each of the timbered counties showing the state lands therein, and shall supply such maps to the district rangers, to the officials of the state and counties requiring them, and in all ways that are practical and feasible shall protect such lands from fire and the illegal cutting of timber; he shall report, from time to time to the board, such information as may be of benefit to the state in the care and management of its timber. It shall be his duty to inquire into the extent, kind, value, and condition of all timber lands; the amount of acres and value of timber that is cut or burned, and he shall also report the quantity and species of second-growth timber, and shall, not later than the first of December of each year, make a written report to the board upon all such data ascertained by him, and shall recommend therein plans for improving the state system of forest protection, management, and reforestation.

Sec. 8. Damage to be reported to Attorney General.—Damage by fire heretofore or hereafter occurring to state timber or lands, when coming to the knowledge of the board or its employes, shall be promptly reported to the attorney general, who, at his discretion, may either enforce collection of such demands directly or may employ private attorneys therefor on such terms (not contingent) as he deems for the best interests of the state. The amount so collected, after deducting therefrom the fees of such attorneys, if any, and other necessary expenses incurred in investigation, preparation for trial, and trial, shall be paid into the state treasury and credited to the fund that would have been entitled to receive the sale price of said lands or timber if sold; or if there be no such fund, then such money shall be credited to the general revenue fund.

The attorney general, either in or out of court, may compromise and settle state claims for fire damage to state lands or timber, on such terms as he deems for the best interests of the state.

Sec. 9. Forester to co-operate with State Auditor.—The forester shall co-operate with the state auditor and with the several departments of the state and federal governments, or with counties, towns, corporations, and individuals, in the preparation of plans for forest protection, management, replacement of trees, wood lots and timber tracts, using his influence as time will permit toward the establishment of scientific forestry principles in the management, protection, and promotion of the forest resources of the state.

Sec. 10. Certain lands to be eliminated from state forests.—When any tract or tracts of land that have been included in areas set apart as state forests are found to be more valuable for the production of farm crops than for forestry purposes, the forester shall

recommend to the board that the same be eliminated from the state forests; and the board by resolution may adopt or otherwise approve such recommendation, whereupon said lands shall be subject to sale the same as other lands not reserved.

When any state lands not reserved or set aside are found by the state auditor to be more valuable for the production of timber than for agriculture, said auditor may recommend to the board that said lands be reserved and set aside for forestry purposes; and the board by resolution may adopt or otherwise approve said recommendation, whereupon said lands shall become a part of the state forests.

Sec. 11. Forester to co-operate with State Highway authorities and other officers.—The forester shall co-operate with the state highway authorities and with the supervising officers of the various towns, cities and villages in the construction of fire-breaks along section lines and public highways.

All villages and cities in the state situated in any forest area are hereby authorized to clear off all combustible material and debris and create at least two good and sufficient fire-breaks of not less than ten feet in width each, which shall completely encircle such municipalities at a distance of not less than twenty rods apart, between which back-fires may be set or a stand made to fight forest fires in cases of emergency.

All towns, villages, and cities are hereby authorized and directed to take necessary precautions to prevent the starting and spreading of forest or prairie fires and to extinguish the same; and are hereby further authorized to levy a tax of not more than five mills annually upon the taxable property of such municipalities, but in no municipality to exceed a total of Three Thousand Dollars (\$3,000.00) in any one year, which tax, when collected, shall be known as the "Fire Fund" and shall be kept separate and apart from all other funds and used only in paying all necessary and incidental expenses incurred in enforcing the provisions of this act. But not to exceed Five Hundred Dollars (\$500.00) shall be expended in any one year from any such "Fire Fund" for the support of any municipal fire department. No such municipality shall make any levy for its "Fire Fund" at any time when the same contains Five Thousand Dollars (\$5,000.00) or more, consisting of cash on hand or uncollected taxes not delinquent, or both.

In all townships constituted within any of the forest patrol districts which may be established by the board, the respective town and village officers and employes shall co-operate with, and be under the general supervision and direction of, the state forestry officers.

Sec. 12. Forester to advance education in forestry.—The forester may advance, as he deems wise, education in forestry within the state by publications and lectures, and upon the invitation of the director of the college of forestry of the University of Minnesota may co-operate with the said college as far as his time will permit,

and such college shall furnish such aid to him as in the circumstances is consistent with its own proper functions.

Sec. 13. Forester to audit bills.—It shall be the duty of the forester to audit and inspect all bills for salary and expenses incurred by the district rangers and by fire patrolmen and other employes for the prevention, suppression, checking, and control of fires, and to recommend to the board the amounts justly due and which should be paid.

Sec. 14. Forester to establish patrolled districts.—The forester may, with the approval of the board, create and establish patrol districts, including all lands of both state and private ownership, upon which there is a probability of forest and brush fires starting, and establish rangers and patrolmen over the said districts. Such rangers and patrolmen may co-operate with aeroplane patrolmen acting under authority of Chapter 34, Session Laws 1923. All such patrol districts heretofore established and now in existence are hereby continued until and unless hereafter abolished by the forester with the approval of the board.

Sec. 15. Duties of rangers.—Under the direction of the forester, the district rangers are charged with preventing and extinguishing forest fires in their respective districts, and the performance of such other duties as may be required by the forester. They may arrest without warrant any person found violating any provisions of this act, take him before a magistrate and there make complaint. When the district rangers shall have information that such violation has been committed, they shall without delay make similar complaint and have the same prosecuted. The district rangers and other forest officers shall not be liable in civil action for trespass committed in the discharge of their duties.

Any district ranger or patrolman may serve any warrant for the arrest of any person violating any provision of this act; and for that purpose all district rangers and patrolmen are hereby vested with the same powers as constables or other similar officers of the courts issuing such warrants.

Sec. 16. District rangers to employ aides.—At any time district rangers, with the approval of the forester, may employ suitable persons to be known as fire patrolmen, permanently to remain upon and patrol any territory (whether comprising public or private lands or both) as may be assigned to them as long as required to prevent and extinguish any fires. Each such patrolman so employed shall be supplied with the necessary equipment. The forester or any district ranger or fire patrolman may summon any male person of the age of eighteen years and upward to assist in stopping any fire burning in the district under the care of such state employe, and may incur any other necessary and reasonable expense for such purpose, but shall promptly report said matter to his next superior officer or other state employe over him.

Any able-bodied person so summoned, who refuses or neglects or otherwise fails to assist in extinguishing such fire or who fails to make all reasonable efforts to that end until released by such state employe who summoned him, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 and not more than \$50.00 and the costs of prosecution, or by imprisonment in the county jail for not less than ten days nor more than thirty days. Such forester, ranger, or patrolman, as the case may be, shall also have power to commandeer for the time being any team, automobile, tools, appliances, or other property in the possession of any person either summoned to assist in extinguishing such fire or in the vicinity thereof, and himself to use, and to require such persons summoned to his assistance to use such commandeered property in the fighting and extinguishing of such fire. But the owner of any property so commandeered shall be promptly paid just compensation for such use thereof, and all damages done to such commandeered property while in such use by said forester, ranger or patrolman, from any money available for such expenses under this act.

Sec. 17. Compensation of rangers and aides.—The wages and expenses of men employed to fight forest fires shall be fixed and paid by the forester and the labor reckoned and paid for at not more than 35 cents per hour. The board is authorized to draw from the state treasury, out of any money at any time appropriated for the purposes of this act, a reasonable sum, not to exceed five thousand dollars (\$5,000) at any one time, and to place the same in the hands of the forester to be used by him in paying emergency expenses, including just compensation for services rendered by persons summoned, and for private property used, damaged, or appropriated under this act. The state auditor is authorized to draw his warrant for such sum when duly approved by the president and secretary of said board. The forester shall take proper sub-vouchers or receipts from all persons to whom such moneys are paid, and after the said sub-vouchers have been approved by the board they shall be filed with the state auditor. Said sum of \$5,000, or such lesser amount as may be placed in the hands of the forester at any one time, shall be deposited (subject to withdrawal by check or otherwise by said forester at any time) in some bank authorized and bonded to receive state deposits; and the bond of such bank to the state shall cover and include such deposit. Any part of said money forwarded by the forester to any ranger or other employe shall likewise be deposited in some such bonded bank, if practicable, and shall likewise be deemed covered by the bond of such bank.

Sec. 18. Notices to be posted before timber is cut.—Before any person shall cut, or cause to be cut, any timber upon any land in, upon, or adjoining any forest or wild land area within this state, such person shall post in a conspicuous place in some camp building on the premises where such cutting is to be done (or if there be no

such building, then on and at the northwest corner of each forty-acre governmental subdivision or at the nearest corresponding point in each fractional subdivision of such lands) a notice in the English language containing the name and postoffice address of such person, and also containing a full description of all the lands upon which such cutting is to be done, designating the same by each forty-acre governmental subdivision or fraction thereof with the proper section, town and range; which said notice shall be kept continuously so posted during the entire time that such cutting is being done. And each year before any such timber is cut, such person shall send a true and correct copy of each such notice, together with a statement of the kind of products proposed to be cut, and who is to be responsible for the disposal of slashings and debris resulting from such cutting, by registered letter, properly enveloped, sealed, postage prepaid, and addressed to the State Forester, State Capitol Building, St. Paul, Minnesota.

Any person who fails to post and send such notice as in this section required shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) or imprisoned in the county jail for not less than twenty days. Provided, however, that the provisions of this section shall not apply to any person who shall be engaged in cutting cord wood or other fuel wood upon his own land or engaged in cutting timber for clearing any land actually owned and occupied by him.

Any person who, and any municipality or political subdivision of this state which cuts or fells timber or brush of any kind in clearing land for any public road bed or right-of-way, or for any other purpose, shall, before starting such operations, notify the forester in writing, describing such intended operations, which notice shall be sent by registered letter, properly enveloped, sealed, postage prepaid and addressed to the State Forester, State Capitol Building, St. Paul, Minnesota.

Sec. 19. Forester to direct disposition of slashings.—Where and whenever in the judgment of the forester or any 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 forester or district ranger shall order the person by or for whom the said timber has been or is being cut to dispose of the slashings and debris as said state employe may direct. Where conditions do not permit the burning of the slashings and debris over the entire area so covered, the forester may require such person 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 forester.

When any person who has been directed by the forester or district rangers to dispose of slashings and debris fails to comply with

such directions, the said person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not exceeding one hundred dollars (\$100.00) and costs of prosecution; and each day during which such failure to comply with said requirements of the forester continues shall be deemed a separate and distinct violation of this act, but any number of such offenses may be prosecuted as separate counts of one charge or information.

When any such slashings or debris are not disposed of or are left unattended, contrary to the instructions of the forester or district ranger, the forester or any district ranger or patrolman may go upon the premises with such force of men as may be necessary and burn or otherwise dispose of all such slashings and debris, and the expense thereof shall be a lien upon the land on which they are situated and upon all contiguous lands of the same owner, and also upon all logs and other timber products cut upon all said lands. Such lien shall have the same effect and may be enforced in the same manner as a judgment in favor of the state for money. An itemized statement verified by the oath of the forester or district ranger of the amount of such costs and expenses incurred in burning or otherwise disposing of such slashings and debris shall be filed, within ninety days from the time said disposal thereof is completed, in the office of the register of deeds of the county in which said timber was cut; and the amount of such lien shall also be a valid claim that may be collected in a civil action from the person who cut the wood or timber from which the said slashings and debris were made. Any moneys so collected shall be paid into the state treasury and credited to the forest service fund.

Any person who cuts or fells trees or bushes of any kind in clearing land for any road bed 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 which shall be promptly removed.

Any person who cuts or fells trees or bushes of any kind in clearing land for any purpose is hereby prohibited from setting fire to the slashings, brush, roots, or excavated stumps or other combustible material on such land and letting the fire run; but the same must be disposed of pursuant to the regulations or directions of the forester.

Any contractor who enters into a contract for the construction of a public road or other work, which involves the cutting or grubbing of woods, standing timber, or brush, shall pile in the middle of the right-of-way all the slashings and debris so cut or grubbed therefrom and shall burn and dispose of such slashings and debris without damage to adjoining timber or woods, which burning shall be done in a manner and at a time satisfactory to the 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 municipality or political subdivision of this state, 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.

In all cases not herein provided for, where timber is cut in, upon or adjoining any forest land and no specific directions are given by the forester for the disposal of slashings and debris resulting therefrom, all such slashings and debris within two hundred feet of any adjoining timber land or (and) any public highway, railroad, portage, or lake shore, shall nevertheless be piled in separate and compact piles ready for burning, which piling shall be done by the person by or for whom such timber was cut and immediately after said cutting is done and while such slashings are still green.

Sec. 20. Road overseers, etc., to extinguish fires.—Every road overseer or assistant of a road overseer or other local officer having charge of any highway or highway patrolman, who finds that any person has left a camp fire burning in his district shall extinguish the same and take prompt measures to prosecute the person or persons who so left such fire.

Sec. 21. Fires to be extinguished before leaving.—Every person who, when the ground is not covered with snow, starts a fire in the vicinity of forest or prairie land, shall exercise every reasonable precaution to prevent such fire from spreading, and shall, before lighting the same, clear the ground of all branches, brushwood, dry leaves and other combustible material within a radius of five feet from the fire, and shall carefully extinguish the fire before quitting the place.

Sec. 22. Unlawful to start fires in certain cases.—It shall be unlawful, when the ground is not snow-covered, in any place where there are standing or growing native coniferous trees, or in areas of ground from which native coniferous trees have been cut, or where there are slashings of such trees, or native brush, timber, slashings thereof, or excavated stumps, or where there is peat or peat roots excavated or growing, to start or have any open fire, except for domestic purposes, or any back fire, without the written permission of the forester or other authorized forest officer, unless a fire-break sufficient to check the spread of such fire shall have been freshly made or plowed around the place or area wherein said fire is set.

But furrows plowed in peat lands or bogs shall not be deemed a sufficient fire-break as required by this section.

The occupant of any premises upon which any unauthorized fire is burning in the vicinity of forest lands, whether such fire was

started by said occupant or otherwise, shall promptly report the said fire to the forester or to the nearest district ranger, patrolman, or fire warden. Failure to make such report shall be deemed a violation of this act; and the occupant of such premises shall be deemed prima facie guilty of negligence if such unreported fire spreads from said premises to the damage, loss, or injury of the state or any person.

Sec. 23. Permission to start fires may be obtained.—Permission to set fire to any grass, stubble, peat, brush, slashings or woods for the purpose of clearing and improving land or preventing other fire shall be given whenever the same may be safely burned, upon such reasonable conditions and restrictions as the forester may prescribe to prevent same from spreading and getting beyond control. Such permission shall be in the form of a written permit signed by a regular forest officer or a member of the town board, designated by the forester, or some other suitable person to be designated by the forester as township fire warden, said permits to be on blanks furnished by the forester. Provided, however, that the forester or any of his assistants or the township fire warden may at his discretion, in cases of extreme danger, refuse, revoke, or postpone the use of permits to burn when such act is clearly necessary for the safety of life and property. Any person setting any fire or burning anything under such permit shall keep such permit on his person while so engaged, and shall produce and exhibit said permit to any district ranger, patrolman, or other employe of the forestry service, or township fire warden, when and as often as requested to do so by any of them.

In any prosecution under this act for unlawfully starting or setting or having or permitting the continuation or spread of any fire or back-fire, proof upon the part of the prosecution that such fire or back-fire originated upon, or was permitted to burn upon, or that it spread from, lands or premises occupied by the person charged with such offense, and that such person had knowledge of such fire and made no effort to put it out, shall be prima facie evidence that he is guilty. And the burden of proof as to any matter in refutation of such prima facie guilt, or in extenuation or excuse, shall be and rest upon the person so appearing prima facie to be guilty.

Sec. 24. Forester may appoint fire wardens.—The forester may appoint supervisors, constables, and clerks of towns, mayors of cities, and presidents or presiding officers of village councils, to be fire wardens for their respective districts; and they shall do all things reasonably necessary to protect the property of such municipalities from fire and to extinguish the same.

Sec. 25. Neglect or refusal to perform duty.—Every forestry employe of the state who shall unjustifiably refuse or neglect to perform his duty; every person who shall kindle a fire on or near forest, brush or prairie land and leave it unquenched, or be a party

thereto, or who shall set fire to brush, stumps, dry grass, field, stubble, or other material and fail to extinguish the same before it has endangered the property of another; every person who shall negligently or carelessly set on fire, or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof; every person who shall use other than incombustible wads for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, in the vicinity of such land or on or along any highway or trail thereover, shall throw or drop into combustible material any burning match, ashes of pipe, lighted cigar or cigarette, or any other burning substance, and who fails to extinguish the same immediately; every person who drives upon or over forest lands in a motor vehicle with an open cutout or without a muffler on the exhaust pipe; and every person who shall deface, destroy, or remove any notice posted under this act; shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty-five dollars and not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail not less than ten days and not exceeding ninety days.

Sec. 26. Forester to provide railroad patrolmen.—When in the judgment of the 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 forester has so notified a railroad company to provide such patrol after trains, the said railroad company shall immediately comply with requirements of such notice throughout the territory designated; and upon its failure so to do, the 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. All moneys so recovered shall be paid into the state treasury and credited to the appropriation from which such expenses were paid.

The forester may prescribe such other measures as 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 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 any failure of such railroad company, its officers and patrolmen to

comply with this section shall be a misdemeanor and shall 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 by or resulting from such failure of duty.

Sec. 27. Locomotives to be equipped with spark arrestor device.—Subsection (1). Every person operating a railroad for any purpose shall equip and use upon each locomotive engine a practical and efficient ash pan and spark arrestor device, which the master mechanic or corresponding skilled employe of such operator shall cause to be examined each time before such locomotive leaves the roundhouse or starts on any trip, between the dates of March 1 and November 30, both dates inclusive, of each year, provided however, that it shall not be required to make more than one such examination of any one engine with a period of 24 hours. Between the dates of December 1 and February 28, both dates inclusive, of each year, such inspection shall be made at intervals of not more than seven days. Such ash pan and spark arrestor device shall be constructed and operated in conformity and in compliance with all the following specifications and rules, to-wit:

(a) Except when the ash pan is being cleaned, the hopper opening for removal of cinders on ash pans constructed with hoppers shall be kept closed while the engine is in use by a cast slide supported by cast guides; and there shall be no opening greater than $\frac{5}{16}$ of an inch between the slide and hopper bottom. Upon written authority of the forester, guides of angle iron may be used, or such openings in hoppers for removal of cinders may be closed by what is known as the "radial type of hopper bottom", the general design of which shall be approved in writing by the forester; or such openings in hoppers for removal of cinders may be closed by such other device, or in such other manner, as may be approved in writing by the forester. All such locomotive engines shall be equipped as provided in this subsection (a) within a period of 4 years from and after the passage of this act.

(b) Ash pans commonly known as solid or swipe pans shall have the ends, if open, covered either with a substantially constructed solid damper or screen damper, which shall extend at least $1\frac{1}{4}$ inches inside or outside the pan when closed, leaving no opening greater than $\frac{5}{16}$ of an inch in width, so arranged that it can be fastened down, and kept fastened down when the engine is in use. If a screen is used, it shall conform to the specifications for use in spark arrestors, as contained in this act.

(c) Openings in ash pans for draught purposes shall be protected by screens bolted firmly and securely over such openings, or such openings may be protected by such other methods as may be approved in writing by the forester. All screens so used shall con-

form to the specifications for spark arrestors, as contained in this act.

(d) On locomotive engines where there is an opening between ash pan and foundation ring, protection shall be furnished by flaring the ash pan and bringing the flare up level with the bottom of the foundation ring, or otherwise by guards approved in writing by the forester.

(e) Openings in ash pans for entry of grate connections must be fully protected; and the openings around the rods where they enter the ash pan must not be greater than $5/16$ of an inch in width, or the grate connections outside the ash pan must be boxed in for their full length so that no sparks or cinders can possibly escape, or the openings must be protected in such other manner as may be approved in writing by the forester.

(f) Plates used in ash pans including all fire protective devices attached thereto, shall not be less than one-fourth of an inch in thickness, and the ash pans, including all fire protective devices attached thereto, shall be so constructed, and maintained in such condition, that there shall be no opening in excess of $5/16$ of an inch in width.

(g) Within a period of two years from and after the passage of this act, such ash pans shall be equipped with swipes, injector overflow or other sprinkling devices, and ashes and coals therein shall be kept extinguished and dampened at all times between April 15 and October 31, both dates inclusive, of each year, and during such additional period, in any particular territory, as may be specified in writing by the forester.

(h) Spark arrestor screens shall be either square mesh wire screen or oblong mesh wire screen or perforated plate. The mesh of square mesh wire screens when new shall not be larger than $2\frac{1}{2}$ meshes per lincal inch in either direction and made of wire not less than 0.134 of an inch in diameter; provided also that square mesh wire screen of 3 meshes and 4 meshes per linear inch in either direction shall be made of wire not less than 0.105 of an inch in diameter and that square mesh wire screen of 5, 6 and 7 meshes per linear inch in either direction shall be made of wire not less than 0.063 of an inch in diameter. The mesh of oblong mesh wire screens when new shall not be greater than $3/16$ of an inch in width nor $3/4$ of an inch in length, and made of wire not less than 0.134 of an inch in diameter; the openings in perforated plates shall, within one year from and after the passage of this act, be oblong not exceeding $3/16$ of an inch in width nor $3/4$ of an inch in length, and there shall not be less than $1/8$ of an inch in width of plate between the meshes, and such plate shall not be less than $1/16$ of an inch in thickness. The condemning limit of the mesh in the square mesh screen shall be $5/16$ of an inch in either direction, and

of the mesh in the oblong mesh screen or perforated plate shall be $\frac{1}{4}$ of an inch in width and $\frac{13}{16}$ of an inch in length.

(i) The spark arrester screen shall have a manhole door with a substantial rigid frame, large enough to allow the entry for purposes of inspection and repair.

(j) All angle irons and plates used for the purpose of attaching or supporting any part of the spark arrester device shall be so placed as to fit closely and continuously to the smoke arch, plates, angle irons, and other parts.

(k) Plates used in spark arrestors shall not be less than $\frac{3}{16}$ of an inch in thickness, except that plates not less than $\frac{1}{8}$ of an inch in thickness may be used in spark arrestors in certain cases, and in the manner and for the purpose as prescribed in writing by the forester. Angle irons used in spark arrestors shall be of sections in size not less than three-sixteenths of an inch by one and one-half inches by one and one-half inches ($\frac{3}{16}'' \times 1\frac{1}{2}'' \times 1\frac{1}{2}''$) on all locomotive engines with extension front and less than 74 inches in diameter and shall be of sections in size not less than one-fourth of an inch by two inches by two inches ($\frac{1}{4}'' \times 2'' \times 2''$), on all locomotive engines with extension front ends greater than 74 inches in diameter unless otherwise authorized in writing by the forester. Within a period of two years from and after the passage of this act, the spacing of rivets, bolts, and studs used in spark arrestors shall not be greater than set forth in the following specifications:

Fastening screens $3\frac{1}{2}$ inches center to center.

Fastening angle irons to smoke arch, 8 inches center to center.

Fastening plates 5 inches center to center.

Fastening angle irons to flue sheet. . . 8 inches center to center.

Material used in the construction or repair of spark arrestors shall be of iron or steel securely bolted or riveted or welded in place. No opening anywhere in the spark arrester device, other than the openings herein specified for wire screen and perforated plate, shall be larger than $\frac{1}{4}$ of an inch in width.

Subsection (2) A record shall be kept of all examinations required by this section, in a book to be furnished by every person operating a railroad for any purpose, showing:

(a) The place and number of each engine inspected.

(b) The date and hour of day of such inspection.

(c) A detailed statement signed by the employe making the inspection, giving location and size of openings greater than permitted by this act and of any and all defects found in the ash pan or spark arrester device, and of the condition thereof, the word person in this subsection shall not be construed to mean the engine crew.

(d) A detailed statement, signed by the employe making the same, of any and all repairs, replacements or renewals, made at

any time on or in connection with the ash pan or spark arrestor device.

The said book shall always be open for inspection by the forester or other authorized officer appointed by him.

Subsection (3). The master mechanic or corresponding employe shall be held responsible for the good condition of the ash pan and spark arrestor device, but without relieving the person owning or operating such locomotive engine from his responsibility hereunder. The word person in this sub-section shall not be construed to mean engine crew.

Any locomotive inspector appointed by the 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, peat or grass lands, and to enter upon any property for such purpose whenever he may deem it necessary in order to see that all the provisions of this act and of other acts relating to the subject matter hereof are duly complied with. Such inspector shall have access to the records of every person operating a railroad for any purpose, and authority to make copies thereof, showing the locations and movements of all locomotive engines within this state, and is authorized to use such methods as he may deem advisable in making up his records and substantiating his findings.

No locomotive, donkey, traction or portable engine or other engine or boiler shall be operated in the vicinity of forest, brush, peat or grass lands after being found defective by such inspector and after notice of such condition has been given to the person in charge thereof, until the repairs specified by the inspector have been made, except where locomotive is found defective on line it may proceed to the first terminal where repairs can be made.

Subsection (4). Every person operating a railroad for any purpose shall keep its right-of-way clear of grass, brush, combustible materials, logs, poles, lumber and wood, except ties and material for shipment and other material necessary for the maintenance and operation of the road, from March 15 to December 1. During particularly dry and dangerous periods the forester may prohibit any and all burning along part or all of any railroad right-of-way for a definite period.

Subsection (5). Every person operating a railroad for any purpose 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.

Subsection (6). Except when snow is on the ground, no donkey, traction, or portable engine, or gas tractor or internal combustion engine or other engine or boiler (except any locomotive con-

forming to all the requirements of this act), shall be operated in the vicinity of peat roads or dry loose peat lands, unless and until the same is provided with a practical and efficient spark arrestor device.

Subsection (7). No person operating a railroad for any purpose shall leave a deposit of fire, live coals or ashes in the immediate vicinity of forest 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, at once to take necessary steps to put out such fire.

Subsection (8). Every person operating a railroad for any purpose shall give its employes particular instructions for the prevention and extinguishment of fires, and shall cause warning placards such as are approved by the forester to be conspicuously posted at every station in the vicinity of forest, peat, brush and grasslands, 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.

Subsection (9). Any person operating a railroad for any purpose shall make such reports to the forester as are deemed necessary and required by the forester covering all fires on or adjacent to the right-of-way of such railroad.

Subsection (10). Whenever any combustible material shall be left in proximity to any railroad, either without proper protection or so as to constitute a fire menace, it shall be the duty of the owner of such material, upon being notified in writing by the forester or any forest ranger, as to the nature and extent of the protection required, forthwith to comply with all the terms of such notice so as properly to protect such material, or remove the same; and upon default of the owner, such protection or removal may be accomplished under the direction of the forester and the expense thereof collected from such owner.

Subsection (11). Every person operating a railroad for any purpose who shall fail to equip and use upon each locomotive engine a practical and efficient ash pan and spark arrestor device, constructed and operated in conformity with all the specifications and requirements set forth in this act, shall be liable to a penalty of five hundred dollars (\$500.00) per day for each and every day on which such defective locomotive is run within this state. Upon receipt of duly verified information disclosing that a violation has occurred, the attorney general may bring suit in the district court of Ramsey County, or of any other county at his election, for the recovery of such penalties, which when so collected shall be credited to the general revenue fund of the state.

Sec. 28. Violation of act to be misdemeanor.—Any person who violates any of the provisions of this act for which no specific penalty is herein prescribed shall be guilty of a misdemeanor and shall be punished accordingly.

Failure by any person to comply with any provision or requirement of this act to which such person is subject shall be deemed a violation of this act.

Any person who violates any provision of this act, in addition to being subject to any penalties herein prescribed for such violation, shall also be liable in full damages to any and every person suffering loss or injury by reason of such violation of this act, including liability to the state of Minnesota and any of its political subdivisions for all expenses incurred in fighting or preventing the spread of, or extinguishing, any fire caused by or resulting from such violation of this act. Whenever a fire set by any person spreads to and damages or destroys property belonging to another, the person setting the fire shall be prima facie guilty of negligence in setting and allowing the same to spread.

At any time the state or any political subdivision thereof, either of its own motion or at the suggestion or request of the board or the forester, may bring an action in any court of competent jurisdiction to restrain, enjoin, or otherwise prohibit any violation of this act (whether here described as a crime or not), and likewise to restrain, enjoin, or prohibit any person from proceeding further in, with, or at any timber cutting or other operations without complying with the provisions of this act or the requirements of the forester pursuant thereto; and the court may grant such relief, or any other appropriate relief, whenever it shall appear that the same may prevent loss of life or property by fire or may otherwise aid in accomplishing the purpose of this act.

Sec. 29. Disposition of fines and penalties.—Except as otherwise expressly provided in this act, all moneys received as penalties for violations of the provisions of this act, less the cost of collection, 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 forester as fire wardens, shall be paid into the treasury of the township, city, or village where the offense was committed.

Sec. 30. Bond to be furnished in case of appeal.—No appeal shall be allowed from a judgment in any court of a justice of the peace, or a municipal court, or other similar court, to the district court in any prosecution under this act, unless the person appealing shall, within the time prescribed by law, enter into a recognizance with sufficient sureties or deposit 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 next general term thereof to be held in and for the same county, and abide the judgment of said court therein.

The justice or judge 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 not exempt from execution, and he shall furnish a copy of the same to the forester.

Whenever an arrest shall have been made for violation of any of the provisions of this act, 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 diligence and energy.

Sec. 31. Reward may be offered.—Upon conviction of any person for violation of any of the provisions of this act, the forester at his discretion may pay from any money placed at his disposal under this act a reward of not more than twenty-five dollars (\$25.00) to the person or persons giving the information leading to such conviction.

Sec. 32. Board to administer act.—The board is hereby empowered and directed to administer and enforce this act; and to that end the board, and the forester with the approval of the board, may make and enforce all necessary or convenient rules and regulations not inconsistent with the provisions and purposes of this act.

In every case the powers delegated to, and the duties imposed upon the board, the forester, and other state or municipal representatives by this act shall be exercised and performed in good faith, without undue oppression, and in a manner as reasonable as the exigencies of the situation will permit.

Sec. 33. Inconsistent acts repealed.—Nothing in this act shall be construed as abrogating the laws specifically governing state parks or other public parks, or state or municipal forests. But the provisions of all such laws and of this act shall be harmonized and both given effect wherever possible.

Nothing in this act shall be construed as restricting the state or any political subdivision thereof in the exercise of any power, right or privilege which may be conferred by separate enactment of the legislature under authority of the so-called "Forest Fire Prevention" amendment to the state constitution, approved by vote of the electors of this state at the general election held in November, 1924.

Sec. 34. Acts separable.—The sections and provisions of this act are separable. And if any section or provision shall be held

unconstitutional by any court, all other sections and provisions shall nevertheless be and remain in full force and effect.

Sec. 35. Inconsistent acts repealed.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed so far, and only so far, as necessary to give full force and effect to this act.

Sec. 36. Effective July 1, 1925.—This act shall take effect and be in force from and after July 1st, 1925.

Approved April 18, 1925.

CHAPTER 408—H. F. No. 1317

An act relating to fish, and providing for the taking and removal of certain fish from public waters, and appropriating money to the Game and Fish Commissioner for improving public waters and preserving fish, and repealing Sections 5594 and 5600, General Statutes 1923 and Chapter 393, General Laws 1921 (not referred to in General Statutes 1923), relating to fish.

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

Section 1. Removal of rough fish from public waters.—Whenever, after an investigation, the Game and Fish Commissioner finds that any of the following conditions exist:

(1) That carp, buffalofish, sheepshead, dogfish, eelpout, garfish and turtles inhabit any of the public waters of this state in such numbers as to interfere with or prevent the natural propagation of game fish therein, or that such fish inhabit any of the public waters of this state in such numbers as to destroy or substantially injure wild celery, wild rice or other aquatic plant life growing therein, or

(2) That the removal of the fish above designated and turtles, will result in an improvement in the quality of such fish remaining therein and will increase the quantity thereof, or will prevent the destruction of wild celery, wild rice and other aquatic plant life in such waters; Then, and in such case he may provide by contract, or by day labor, under his supervision, or both, for the taking and removal of the fish designated and turtles, by means of seines, nets, or by any other devices, from June 1st to April 1st following, both inclusive.

Provided, however, that in all counties of this State lying southerly of the St. Croix River and tributary to the Mississippi River and having a population of 28,000 or over, according to the last federal census, the respective boards of county commissioners shall have power to prohibit seining or fishing in any of the waters