

sene, distillate, fuel oil or any by-product of crude oil or coal upon which gasoline tax has not already been paid or liability therefor reported to the Chief Oil Inspector, with gasoline upon which a tax has been paid or liability assessed therefor by the Chief Oil Inspector, is prohibited.

Sec. 2. Violations—Penalties.—Violation of this act shall constitute a gross misdemeanor and be punished accordingly.
Approved April 22, 1939.

CHAPTER 409—S. F. No. 892

An act to amend the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 7714, and permitting investment in policies of life or endowment insurance or annuity contracts.

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

Section 1. Investment of trust funds.—That the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 7714, be amended by adding thereto a new subdivision designated as Section 13 and to read as follows:

"13. (a) The district court, upon petition of a trustee under a will or other instrument may, if the trust does not otherwise provide, authorize the trustee to invest the income or principal of the trust fund in policies of life or endowment insurance or annuity contracts, issued by a life insurance company duly authorized to transact business in the state, on the life of any beneficiary of the trust or on the life of any person in whose life such beneficiary has an insurable interest.

(b) The probate court, upon the application of a guardian, may authorize him to invest income or principal of the estate of his ward in policies of life or endowment insurance or annuity contracts, issued by a life insurance company duly authorized to transact business in the state, on the life of the ward or on the life of a person in whose life the ward has an insurable interest.

Approved April 22, 1939.

CHAPTER 410—S. F. No. 902

An act authorizing counties to regulate the running at large of dogs, and to create a live stock and poultry indemnity

fund, and providing for the handling and disposition thereof and prescribing penalties; repealing the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 7297-1 to 7297-37.

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

Section 1. County Board to license dogs.—The board of county commissioners of any county is hereby authorized to establish a system of licensing and regulating the running at large of dogs, except in cities of the first class, and create a live stock indemnity fund to be handled and disbursed as hereinafter provided.

Before regulating and licensing, there must be filed with the county auditor a petition signed by at least 25 per cent of the persons actually engaged in raising live stock, including poultry, in the county as shown by the assessors' records, requesting the board to establish such system. When such petition has been filed, the board of county commissioners shall establish such system; or, the board of county commissioners may by a majority vote on their own motion and without petition, establish such system. The board of county commissioners shall exclude from the operation of this act burroughs, second, third and fourth class cities if such city has in operation a satisfactory law regulating dogs running at large.

Sec. 2. Dogs must have licenses.—(1) In every county in which this Act shall become operative every dog more than six months of age must have a license. The owner of any dog (the word "owner" when used in this act in relation to property in, or possession of, dogs shall include every person who owns, harbors or keeps a dog) shall, on or before February 1st in each year, obtain a license for his dog, and shall pay for such license the fee prescribed by the county commissioners which shall not be less than one dollar nor more than three dollars; such payments to be made to the town, village or city clerk or deputy. The application for such license shall be in such written form as prescribed by the county auditor, and shall state the name, sex, breed, age, color and marking of the dog for which the license is sought.

(2) The license year shall correspond to the calendar year. The current license year shall expire December 31, 1939. The sale or transfer of any licensed dog shall carry with it and transfer the license.

Sec. 3. Assessor to list dogs.—(1) Every assessor shall annually ascertain by diligent inquiry the dogs owned, har-

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bored or kept within his assessment district. Every person shall answer frankly and fully all questions which shall be put to him by such assessor relative to the ownership or keeping of dogs within the assessor's district. The assessor shall prepare and file with the town or village clerk a list containing the names and addresses of all owners of dogs in his district, and the number and sex of dogs owned, harbored or kept. He shall make a list of the names of persons owning and operating kennels and the number of dogs kept in each. The term "kennel" shall mean any establishment where dogs are kept for the purpose of breeding, sale or sporting purposes. Any person who keeps or operates a kennel may in lieu of the license for each dog required by this act apply to the town, city or village treasurer for a kennel license for the keeping or operating of such kennel. For such a kennel license he shall pay a fee of ten dollars for the license year. With such kennel license the clerk shall issue a number of metal tags equal to the number of dogs kept in the kennel. Such tags shall be made in a form so that they may be readily distinguishable from the individual license tags for the same year. The licensee of a kennel shall at all times keep one of such tags attached to the collar of each dog over six months old kept by him under a kennel license. Such tags may be transferred from one dog to another within the kennel wherever any dog is removed from the kennel. Such list shall be filed with the town, village or city clerk at the time the assessor delivers to such clerk his assessment roll. The clerk may appoint a deputy or deputies to issue such licenses. The clerk shall receive ten cents for each license issued, to be paid by the town out of the revenue fund.

(2) A license shall be issued by said clerk or his deputy upon application being made therefor and upon payments made as herein provided. Such license shall be in the form prescribed by the county auditor and shall be executed by the proper town, village or city clerk or his deputy. The license shall state the year for which it was issued, shall bear a serial number, the owner's name and address, and the name, sex, breed and color of the dog licensed. Whenever information is furnished that any dog on the assessor's list is dead the clerk shall so indicate on such list.

Sec. 4. Clerk to issue metal tags.—(1) The clerk or his deputy issuing a license shall at the same time deliver to the licensee a metal tag which shall bear the same serial number as the license. Said tag shall also bear the name of the county in which issued and the license year. The county auditor shall contract for and have prepared and furnished annually a suffi-

cient number of such metal tags, and a sufficient supply of suitable blank licenses to be bound in books of proper size and perforated so that a duplicate of each license may be kept upon the stub thereof. The cost of making, printing, and furnishing said tags and blank license receipts shall be paid out of the dog license fund.

(2) The several county auditors shall distribute said tags and license blanks to the several town, village and city treasurers in proper amounts together with blank license receipts. The licensee shall securely attach the tag to a collar and this collar with the tag attached shall at all times be kept on the dog for which the license is issued. A new tag with a new number shall be furnished to the licensee by the town, village or city clerk or his deputy in place of the original tag upon presentation of the license and proof of the loss of the original tag. The town clerk or his deputy shall then indorse the new tag number on such license and shall enter it upon the register. The clerk shall receive for his services in issuing such new tag the sum of ten cents to be paid by the person obtaining the new tag. 7

(3) Every town, village or city clerk or his deputy shall at the time of issuing a license and before delivering the same make a complete duplicate thereof upon the stub portion of the license blank. Said clerk shall annually during the month of January return to his county auditor all unused tags of the preceding year, together with license books therefor and all duplicate licenses of the preceding year and the said county auditor shall carefully check said returned tags, duplicate licenses, and license blanks to ascertain whether all tags and license blanks which were furnished by the county auditor have been accounted for, and to enable the county auditor to do that, he shall charge each town, village, or city clerk with all tags and blank licenses furnished or delivered to him and credit him with those returned. In case of discrepancy, the county auditor shall notify the county attorney who shall investigate and take steps to enforce the law. 15

Sec. 5. To pay fees to County Treasurer.—Every town, village or city clerk or his deputy shall at the end of each month pay all license fees received by him and his deputy and not before paid, to the county treasurer and shall at the same time report in writing to the county auditor the licenses issued during the month and for which the license fees so deposited with the county treasurer were paid. Such report shall be in the form prescribed and furnished by the several county auditors.

Sec. 6. To be kept in dog license fund.—(1) The license fees so paid to the county treasurer shall be kept in a separate account and shall be known as the “dog license fund” and shall be appropriated and disbursed for the purposes and in the manner herein set forth.

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(2) Expenses necessarily incurred by the county in purchasing and providing books, forms and other supplies required in the administering of the dog license law shall be paid out of said dog license fund. The amount remaining thereafter in said fund shall be available for and may be used as necessary for paying claims allowed by the county to the owners of domestic animals on account of damages done by dogs during the license year for which the fees were paid. Any surplus in excess of \$1,000 which may remain from the license fees of any license year shall on March first of the succeeding year belong and be credited to and paid by the county treasurer to the towns, villages and cities of his county for their use in the proportion in which said towns, villages and cities shall have contributed and paid to the fund out of which said surplus arises. It shall be used as the governing body of the town, village or city shall determine. Whenever any county operating under the provisions of this Act shall discontinue their dog licenses and livestock indemnity fund, any money remaining shall be distributed among the various townships in proportion to license money paid in.

Sec. 7. May seize dogs running at large.—(1) Any person may seize, impound or restrain any unlicensed dog which he may find running at large. The fact that a dog is without a license attached to a collar shall be presumptive evidence that the dog is unlicensed. The sheriff and his deputies, any marshal or constable or other police officer shall seize, impound or restrain any dog for which no license has been issued and for which one is required. Any officer who shall seize, restrain, impound or kill any dog found in any place without a license as required under sections two to 12, inclusive, upon delivery of such dog or carcass and the proper disposal of the carcass and after making a report to the village, town or city treasurer of the village, town or city in which the dog was seized or killed, showing that the dog did not have a license, shall receive therefor a payment of two dollars, the same to be made from any funds in the village, town or city treasury not otherwise appropriated.

(2) It shall be unlawful for any person to harbor or permit to remain about his premises any dog for which no license exists and for which one is required. Any person who shall

have seized or impounded a dog with or without license under section 7 shall deliver such dog to the humane officer of the village, town or city, if such officer exists; or if there be no such officer to the constable, village marshal, or the town, village or city police officer. The officer to whom the dog is delivered shall without delay notify the owner personally or through the United States mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or cannot be ascertained, then the officer shall post written notice in three public places in his town, giving a description of the dog, stating where it is impounded and the conditions for its release. If after five days the owner does not claim such dog such officer shall dispose of the dog in a proper and humane manner.

(3) Any person who shall violate any of the provisions of this act shall be liable to a penalty of not less than five dollars nor more than \$50.00 for such violation.

Sec. 8. Owners of domestic animals may file claim for damages.—(1) The owner of any domestic animals (including poultry, and game birds) attacked, chased, worried, injured or killed by a dog or dogs may within ten days after the owner shall have knowledge or notice thereof, file a written claim for damages with the clerk of the town, village or city in which the damage occurred. The form of such claim may be prescribed by the county auditors. Upon presentation of such claim the supervisors of the town, the board of trustees of the village, or the common council of the city, or a committee appointed for that purpose by the supervisors, the board of trustees or the common council shall promptly investigate said claim and may subpoena witnesses, administer oaths and take testimony relative thereto and shall within 30 days after the filing of said claim make, certify and return to the county auditor said claim, a report of the investigation, the testimony taken and the amount of damages, if any, suffered by the owner of said animals.

(2) The form of the report and certification shall be prescribed by the county auditor and shall be subscribed by the supervisors, board or committee making the same. The county auditor shall lay before the county board at its first meeting, following the receipt of any such claim, all claims so filed and reported and the same shall be acted upon and determined by the county board as other claims are determined and acted upon, and the county board shall equalize the values and claims between and within the various towns of the county. The amount of damages filed and reported to the

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county auditor shall be prima facie proof of the actual damages sustained, but evidence may be taken before the county board relative to the claims as in other cases and appeals from the action of the county board shall lie as in other cases. On appeal from the action of the county board, said trial shall be by the court without a jury.

(3) Such claims shall be solely against the dog license fund and shall create no other liability on the part of the county.

(4) The amount allowed by the county board upon any such claim shall in no case exceed \$100.00 for each horse, mule, or bovine; \$15.00 for each sheep or goat; \$30.00 for each swine; or three dollars for each fowl. Whenever the claimant shall furnish conclusive evidence as to the ownership of the dog or dogs doing the damage the claimant shall be paid the full amount of the claim submitted.

(5) Distribution of dog license fund among claimants for loss of animals by dogs within license year shall be made at the close of license year.

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Sec. 9. **May kill dogs in certain cases.**—Any person may kill any dog, that he knows is affected with the disease known as hydrophobia, or that may suddenly attack him while he is peacefully walking or riding and while being out of the inclosure of its owner or keeper, and may kill any dog found killing, wounding or worrying any horses, cattle, sheep, lambs, or other domestic animals.

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Sec. 10. **Allowance of claims.**—No claim shall be allowed by the county board at less than the amount so certified and reported, unless the claimant shall first be notified that such action is contemplated and shall have been given a reasonable opportunity to be heard and to offer further evidence in support of his claim.

Sec. 11. **Removing of licenses.**—No person except the owner or his authorized agent shall remove any license tag from a dog collar or remove any collar with a license attached thereto from any dog. No person shall keep or harbor a dog wearing a fictitious, altered or invalid license tag, or a license tag not issued in connection with the licensing or keeping of the dog wearing the same. No license or license tag issued for one dog shall be transferrable to another dog. Every town, village or city clerk shall notify the county attorney of his county of every refusal or failure of an owner to obtain a license for keeping his dog and it shall be the duty of the county

attorney to institute proceedings against such owner and against every owner within his county who has violated any of the provisions of this act.

Sec. 12. Exemptions.—Dogs brought into this state temporarily for a period not to exceed 30 days shall be exempt from the provisions of this act.

Sec. 13. Provisions severable.—The provisions of this act relating to the licensing of dogs and the provisions for the payment of claims out of the dog license fund for damages done by dogs are severable and the provisions relating to such payment of claims are not an inducement to the enactment of any other provisions of said act.

Sec. 14. Law repealed.—In the event that any section, provision or part of this act shall be declared unconstitutional it shall not in any way affect any other section, provision or part thereof.

Sec. 15. Application of act.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 7297-1 to 7297-37 are hereby repealed.

Sec. 16. This act is supplemental to all other laws relating to dogs not expressly referred to herein, and to all laws relating to taxation of dogs as personal property, and shall not be construed as to modify, repeal or in any wise affect any part of provision of any such laws not expressly repealed herein or to prevent municipalities from prohibiting, licensing or regulating the running at large of dogs within their respective limits by law or ordinance now or hereafter provided.

Approved April 22, 1939.

CHAPTER 411—S. F. No. 1088

An act to amend Mason's Minnesota Statutes of 1927, Sections 3453 and 3455, relating to fraternal beneficiary associations.

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

Section 1. Age of admission to fraternal beneficiary societies.—That Mason's Minnesota Statutes of 1927, Section 3453, is hereby amended to read as follows:

“No association shall admit to beneficial membership any