

CHAPTER 347—H. F. No. 303

An act relating to cartways, and the powers and duties of the district courts and the judges thereof in relation thereto.

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

Section 1. Petition for cartways.—Whenever a petition praying that a cartway two rods wide is signed and presented to one of the judges of the district court of the county in which the land of the petitioner or petitioners is situated, praying for the establishment of a cartway from the land of such petitioner or petitioners over the land of another or others so as to connect with a public highway, where such cartway commences in one township and terminates in another township, such judge is hereby authorized to appoint three appraisers to examine the route of such proposed cartway, determine the cost of the construction thereof on and over lands other than that belonging to the petitioner or petitioners, and assess the damages, including the cost of the right of way, that may be caused to the lands of others on and over which said cartway is proposed to be established and laid out.

Sec. 2. Petition to describe land.—Such petition shall be signed by the owner or owners of any tract of land not less than ten acres in area and which is improved and actually used and occupied as the exclusive place of residence by the owner or owners thereof for farming or agricultural purposes, and which tract has no access to a public highway excepting on or over the lands of others, and the right to travel over which has not been lawfully acquired. Such petition shall describe the course of such cartway, commencing from some designated point on the land of the petitioner or petitioners, and the point of intersection with the public highway; it shall also describe the lands of others over which such cartway is to be established, the names of the owners and occupants thereof; it shall also set forth the area in the tract of land owned by the petitioner or petitioners, that it is used exclusively for farming or agricultural purposes, its improvements, and that it is the exclusive place of residence of such petitioner or petitioners with his or their family or families, if any; and that such tract is without any access to the public highway excepting on or over the lands of others, and over which the petitioner or petitioners have not acquired the right to travel; together with a statement of the reasonable value of the tract of land owned by such petitioner or petitioners and which is so sought to be connected by the cartway.

Sec. 3. District Court to appoint appraisers.—Upon the filing of such petition in the office of the clerk of the district court of the county the same shall be immediately presented to one of the district court judges thereof, who shall thereupon make and file an order appointing three disinterested freeholders who are not residents of any of the townships in or through which such proposed cartway is to be established and laid out; he shall in such order fix the time and place of the meeting of such appraisers, require that they shall take and subscribe an oath for the faithful performance of their duties and cause the same to be filed in the office of the clerk of such court; require that they shall examine the route of such proposed cartway; determine and assess the damages on account of the establishment and opening of such cartway, including the value of the land taken for right of way separately in each township; and determine also the cost of the construction of such cartway on and over the lands of others than that of the petitioner or petitioners, separately as to each township; and require that such appraisers shall make a full and complete report of their findings and assessments or awards to the judge of such court at a time and place specified in the order of their appointment, and in addition thereto that they shall also find and determine whether the route of such proposed cartway is practical and feasible and the least expensive of any route that may furnish an outlet from the tract of the owner or owners to a public highway.

Sec. 4. Petitioners to serve owners personally.—The petitioner or petitioners shall cause personal service of such order to be made upon each occupant of the land on or over which such cartway is proposed to be located and established at least ten days before the meeting of the appraisers, and also cause ten days' posted notice thereof to be given in each of the townships in which the proposed cartway is sought to be located and established, and file one copy thereof in the office of the township clerk of each of the townships in which any part of such cartway is proposed to be located, and furnish due proof of such service, posting and filing.

Sec. 5. Appraisers to make appraisal.—That thereupon it shall be the duty of the said appraisers to proceed with the performance of their duties as required of them in and by the order of their appointment, and they shall hear all persons interested both for and against the establishment of such cartway and make report of their findings and assessments within the time and in the manner provided by the order of the court.

Sec. 6. Judge to order road constructed.—If upon the hearing of the report of such appraisers, and of all persons interested for or against the establishment of such cartway, the district judge shall find therefrom that the report of the appraisers is correct, and if such appraisers shall have determined by their report that the route of such proposed cartway is practical and feasible and the least expensive of any route that may furnish an outlet from the tract of the owner or owners to the public highway, then he shall make an order establishing such cartway, and he shall order the same to be constructed by the respective townships in which such cartway is established as to that part of such cartway situated within each respective township; and also order the payment of the damages including the cost of the right of way to be paid by such townships for that part thereof assessed separately to lands in each township respectively, less one-third of such damages and cost of the right of way, which one-third shall be paid by the petitioner or petitioners. That a certified copy of such order, upon its becoming final as hereinafter provided, shall be filed in the office of the county auditor of such county, and one in the office of the clerk of each of the townships affected.

Sec. 7. May demand jury trial.—That the owner of any land on or over which such cartway is established, may demand a jury trial as to the amount of damages including cost of right of way awarded by the appraisers for the establishment of such cartway thereon or thereover, by filing in the office of the clerk of such court, within 10 days after the entry of such order, a written demand therefor, a specifying therein wherein such owner deems himself aggrieved by the order establishing such highway, and furnishing to the county in which such proceedings are pending a bond in the sum of \$250.00, conditioned that the demandant shall prosecute such demand with dispatch, and in case the amount of the damages is not increased that he will pay all the costs and disbursements of the petitioner assessed as the result of such trial. That if no such demand is filed the order of such district court establishing such cartway shall become final; and in the event of a demand for a jury trial, such order shall become final 30 days after the entry of judgment on the verdict of the jury therein, unless the time shall be extended for cause by an order made and filed in the proceedings by the judge of such court.

Sec. 8. Cost to be deposited with Clerk of District Court.—That the townships shall not be required to proceed with the construction of such cartway until there shall have been de-

posited in the office of the clerk of the district court, for the benefit of those entitled thereto, the amount which such petitioner or petitioners shall be required to pay as his or their share of the damages and cost of right of way as finally determined.

Approved April 21, 1939.

CHAPTER 348—H. F. No. 310

An act to amend Mason's 1938 Minn. Supp., Section 5509, relating to hunting within two miles of certain cities.

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

Section 1. Hunting within two miles of certain cities.—Mason's 1938 Minn. Supp., Section 5509, is hereby amended so as to read as follows:

"5509. No person shall hunt or have in possession for the purpose of hunting, within two miles of the corporate limits of any city having a population of 50,000 or more, any gun, rifle, or other firearm; *except in a city having a population of 50,000 or more, and bordering on interstate waters, a person may be permitted to hunt migratory waterfowl.* Target practice on duly established and properly guarded rifle ranges, and trap shooting or gun practice by members of duly organized gun clubs on lands owned or leased or occupied for that purpose by such clubs, are excepted from the operation of this section."

Approved April 21, 1939.

CHAPTER 349—H. F. No. 348

An act to amend the 1938 Supplement of Mason's Minnesota Statutes of 1927, Section 2673, relating to motor vehicles exempt from the payment of motor vehicles licenses; to repeal Section 2673-4.

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

Sec. 1. Motor vehicles exempt from license tax.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2673, is hereby amended so as to read as follows: