

GENERAL STATUTES

OF

MINNESOTA

1913

PUBLISHED UNDER THE AUTHORITY OF THE
LEGISLATURE BY VIRTUE OF AN ACT
APPROVED APRIL 20, 1911
(LAWS 1911, CH. 299)

COMPILED AND EDITED BY
FRANCIS B. TIFFANY

ST. PAUL
WEST PUBLISHING CO.
1913

5103. **Violation a gross misdemeanor**—Any person, member of a partnership or officer of an association or corporation who fails to comply with any provision of this act shall be guilty of a gross misdemeanor. ('13 c. 532 § 6)

5104. **Not applicable to attorneys, banks or trust companies**—This act shall not apply to any attorney-at-law duly authorized to practice in this state and resident herein, to a national bank, or to any bank or trust company duly incorporated under the laws of this state. ('13 c. 532 § 7)

CHAPTER 36

PROTECTION AGAINST FIRE AND REGULATION OF HOTELS AND RESTAURANTS

HOTELS, THEATERS AND OTHER BUILDINGS

5105. **Classification of buildings**—For the purposes of this chapter, buildings shall be classified as follows:

1. Hotels and other structures two stories high, with ten or more sleeping rooms, where sleeping accommodations are furnished to the public.
2. Such hotels and structures more than two stories high.
3. Tenements, flat buildings, and boarding houses, more than two stories high, accommodating more than twenty persons, whether in one family or more; an attic or mansard-roof floor, when used for sleeping, to be counted as a story.
4. Buildings used as theaters or public halls, and having a seating capacity of over three hundred.
5. Public school buildings, and seminary, academy, and college buildings, more than two stories high.
6. Hospitals and asylums two or more stories high.
7. Prisons, reformatories, workhouses, jails, and other places of penal confinement. (2365)

See note under § 5112.

116-299, 133+856, 39 L. R. A. (N. S.) 231.

5106. **Requirements for class one**—For each twenty-five hundred feet of area, or fractional part thereof, covered by a building in class one, there shall be provided an efficient chemical fire extinguisher, conveniently located in a public hallway outside of the sleeping rooms, and always in condition for use, or a one and one-fourth inch inside standpipe, with hose connection, and hose of sufficient length always attached, in such hallway, which standpipe shall be supplied by a sufficient pressure of water. (2366)

As to hotels, etc., see §§ 5113-5124.

5107. **Same—Class two**—Each six thousand feet of area, or fractional part thereof, covered by a building in class two, shall be provided with a one and three-fourths inch inside standpipe, and sufficient one and one-fourth inch hose connected therewith on each floor, and constantly furnished with sufficient water pressure from waterworks or pump which can be put into instant action; or for each such area there shall be a two and one-half inch metallic standpipe, with metallic ladder attached above the first story, located upon the outside of the wall, extending above the roof, and so situated as to be accessible from the roof, and from each story above the first, with valves and male hose connections at every story and on the roof, and female hose connection at base of the pipe, of such size and pattern as to allow connection with the equipment of the local fire department. There shall also be provided for each eighty-five hundred feet of such area, or fractional part thereof, at least one efficient chemical fire extinguisher on each floor containing sleeping apartments. If, for lack of waterworks or steam to operate pumps, the inside standpipe be not practicable, then, in addition to the fire extinguishers, there shall be placed in the hallway on each floor containing sleeping apartments one barrel of water and two pails, labeled "For fire purposes only," for each twenty-five hundred feet of area, or fraction thereof, on such

§ 5113 PROTECTION AGAINST FIRE AND REGULATION OF HOTELS, ETC. 1117

floor. A red light shall be kept burning all night at the head of each stairway above the first floor, and at or near each approach to a stationary fire escape. In each sleeping room above the first floor the following printed notice shall be conspicuously posted: "Exit in case of fire. Upon leaving this room, turn to the (here insert 'right' or 'left') and by passing (here insert distance in feet) you will reach a red light which indicates (here insert 'fire escape' or 'stairway')." (2367)

As to hotels, etc., see §§ 5113-5122.

5108. Same—Class three—For each five thousand feet of area, or fraction thereof, covered by a building in class three, there shall be provided one outside standpipe, as described in § 5107, and one non-combustible ladder or stairway for each twenty persons, or fraction thereof, that such building accommodates above the first story. (2368)

As to hotels, etc., see §§ 5113-5122.

See note under § 5112.

5109. Same—Class four—Each building in class four shall be provided with a standpipe running to the stage, and with hose always connected, and of length to reach all parts of the stage; also with an efficient chemical fire extinguisher properly located to protect scenery. If, for lack of constant water pressure, the standpipe should be impracticable, the stage shall be provided with two such extinguishers, and at least one barrel of water, with two pails, labeled, "For fire purposes only." The foregoing provisions of this section shall not apply to halls where neither curtains nor scenery are used, but all buildings in class four shall have exits, non-combustible stairways, ladders, fire escapes, and other means of fire protection in such number and of such character and size as may be determined from time to time by the proper local authorities. (2369)

See §§ 2125-2128.

5110. Same—Classes five and six—Buildings in classes five and six shall be provided, when practicable, with an inside or outside standpipe, as required for those in class two. A chemical fire extinguisher shall be provided on each floor above the first, and there shall be exits, non-combustible stairways and ladders and fire escapes, in such number and of such character and size as may be determined from time to time by the proper local authorities. (2370)

5111. Same—Class seven—Each building in class seven that is not built of stone, brick, or iron, with non-combustible partitions, and roof practically fireproof, shall have a standpipe and sufficient hose, connected on each floor with constant water pressure, or an efficient chemical fire extinguisher on each floor. (2371)

5112. Enforcing law—Penalties—The proprietor and lessee of every building in any of the classes hereinbefore mentioned shall equip the same in the manner prescribed, and every failure so to do shall constitute a misdemeanor. Every firewarden, marshal, chief of fire department, chief of police, and building inspector of an incorporated place, or, where no such officer exists, the town and county boards, shall enforce the provisions of this chapter. Every person who shall fail to comply with any such provision within thirty days after written notice so to do from any such officer shall be guilty of a gross misdemeanor. All fines collected hereunder shall be turned into the school fund of the county in which the conviction occurs. (2372)

The owner and lessor, who unlawfully fails to equip the building with fire escapes, as provided by R. L. §§ 2365, 2368 [5105, 5108], cannot maintain an action on the lease for rent (116-299, 133+856, 39 L. R. A. [N. S.] 231).

5113. Hotels, restaurants, etc., defined—Every building or structure, kept, used as, maintained as, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public whether with or without meals shall for the purposes of this act be deemed a hotel.

Every building or other structure, and all buildings in connection, kept, used, or maintained as, or advertised as, or held out to the public to be a place where meals and lunches are served without sleeping accommodations, shall for the purpose of this act be deemed to be a restaurant, and the per-

1915
Chap

1118 PROTECTION AGAINST FIRE AND REGULATION OF HOTELS, ETC. § 5113

son or persons in charge thereof, whether as owner, lessee, manager or agent, for the purpose of this act, shall be deemed the proprietor of such restaurant, and whenever the word "restaurant" shall occur in this act, it shall be construed to mean such structure as described in this section. ('13 c. 569 § 1)

Section 13 repeals 1911 c. 206 and 1905 c. 343, and all acts or parts of acts conflicting with any of the sections of the act. This act appears to supersede R. L. §§ 2373, 2374.

1905 c. 343, cited (116-299, 133+856, 39 L. R. A. [N. S.] 231).

5114. Same—Hotel inspector—Salary, bond and duties—For the purpose of carrying into effect the provisions of this act, the governor shall appoint a hotel inspector at a salary of \$1800 per year, payable monthly, who shall hold office for two years, and who shall furnish a bond in the sum of \$2000.00 to be approved by the attorney general. He shall keep a set of books for public use and inspection, showing the condition of all hotels and restaurants, together with the name or names of the owner, proprietor or manager thereof, and showing their sanitary condition, the number and condition of fire escapes, and any other information that may be for the betterment of the public service, and likewise shall assist in the enforcement of any orders promulgated by the state board of health and pure food department of this state, relating to hotels and restaurants. ('13 c. 569 § 2)

5115. Same—Licenses—Applications, fees, etc.—Within sixty days after the passage of this act and each year thereafter, every person, firm or corporation now engaged in the business of conducting a hotel or restaurant, and every person, firm or corporation who shall hereafter engage in conducting such business, must procure a license for each hotel or restaurant so conducted, or proposed to be conducted, provided that one license shall be sufficient for each combined hotel and restaurant where each are conducted in the same building and under the same management. Each license shall expire on the 31st day of December next following its issuance. The hotel inspector shall furnish to any person, firm or corporation desiring to conduct a hotel or restaurant an application blank to be filled out by such person, firm or corporation for a license therefor, and which shall require such applicant to state the full name and address of the owner of the building, the lessee and manager of such hotel or restaurant, together with the full description of the building and property to be used or proposed to be used for such business, the location of the same, the name under which such business is to be conducted, and such other information as may be required therein by the hotel inspector, and such application shall be accompanied by a license fee of \$2.00 and all such fees shall be turned in to the state treasury on the first day of January, April, July and October of each year.

Upon the approval of such application by such hotel inspector, a license to conduct such business as such application is made for, shall be issued by such hotel inspector. No hotel or restaurant shall be maintained and conducted in this state after the taking effect of this act, without having secured a license therefor as herein provided, and no license shall be transferable. Provided, however, that after the making of application for license herein provided for and pending the issuance of such license, such hotel or restaurant shall be permitted to operate as such until the final refusal of such application by the inspector.

Provided, also that no hotel or restaurant shall be denied relief in the courts in any action instituted by either such hotel or restaurant by reason of the fact that a license has not been issued to such hotel or restaurant. ('13 c. 569 § 3)

5116. Same—Inspections—Duties and powers of inspector—It shall be the duty of such hotel inspector to inspect or cause to be inspected at least once annually every hotel and restaurant in this state, and for such purpose he shall have the right to enter and have access thereto at any reasonable time, and whenever, upon such inspection it shall be found that such business and property so inspected is not being conducted or is not equipped in the manner required by the provisions of this act, or is being conducted in such manner as to violate any of the laws of this state, it shall thereupon be the duty of the hotel inspector to notify the owner, proprietor or agent in charge of such business, or the owner or agent of the building so occupied, of such con-

§ 5119 PROTECTION AGAINST FIRE AND REGULATION OF HOTELS, ETC. 1119

dition so found, and such owner, proprietor or agent shall forthwith comply with the provisions of this act unless otherwise herein provided. A reasonable time may be granted by the hotel inspector for compliance with the provisions of this act. ('13 c. 569 § 4)

5117. Same—Plumbing, lighting, heating, etc.—Sleeping rooms—Water closets, etc.—Every hotel and restaurant in this state shall be properly plumbed, lighted and ventilated, and shall be conducted in every department with strict regard to health, comfort and safety of the guest. Provided, that such proper lighting shall be construed to apply to both daylight and illumination, and that such proper plumbing shall be construed to mean that all plumbing and drainage shall be constructed and plumbed according to approved sanitary principles, and that such proper ventilation shall be construed to mean at least one door and one window in each sleeping room.

No room shall be used for a sleeping room which does not open to the outside of the building, or light wells, air shafts or courts, and all sleeping rooms shall have at least one window to the outside of the building or light wells, air shafts or courts and shall have one door opening on a hallway.

In each sleeping room there must be at least one window with openings so arranged as to provide easy access to the outside of the building, light wells, air shafts or courts.

Provided, that the provisions of paragraphs 1, 2, and 3 of this section shall not apply to any hotel in which the compartments are arranged on the cubical plan, or the dormitory plan, in conformity with the provisions of local ordinances and regulations.

In all cities, towns and villages where a system of water works and sewerage is maintained for public use, every hotel and rooming house shall, within six months after the passage of this act, be equipped with suitable water closets for the accommodation of its guests, which water closet or closets shall be connected by proper plumbing with such sewerage system, and the means of flushing such water closets with the water of said system, in such manner as to prevent sewer gas or effluvia from arising therefrom. All lavatories, bath tubs, sinks, drains, closets and urinals in such hotels must be connected and equipped in a similar manner both as to methods and time.

In all cities, towns and villages not having a system of water works, every hotel shall have properly constructed privies or over vaults which shall be heated during the days of the winter months between the hours of 6 a. m. to 10 p. m. to receive the night soil, the same to be kept clean and well screened at all times, and free from all filth of every kind, furnishing separate apartments for sexes, each being properly designated.

Each hotel in this state shall be provided with a main public wash room convenient and of easy access to guests. ('13 c. 569 § 5)

5118. Same—Fire protection in smaller hotels, etc.—In all hotels and restaurants two stories high, with ten or more sleeping rooms, where sleeping accommodations are furnished to the public, there shall be provided for each twenty-five hundred feet of area or fractional part thereof an efficient chemical fire extinguisher, conveniently located in a public hallway outside of the sleeping rooms, and always in condition for use, or a one and one-fourth inch inside stand pipe with hose connections and a hose of sufficient length always attached in such hallway, which standpipe shall be supplied by sufficient pressure of water. ('13 c. 569 § 6)

5119. Same—Fire protection in larger hotels, etc.—In all hotels and restaurants more than two stories high with ten or more sleeping rooms where sleeping accommodations are furnished to the public, each six thousand feet of area or fractional part thereof shall be provided with a one and three-fourths inch standpipe, and sufficient one and one-fourth inch hose connected therewith on each floor and constantly furnished with sufficient water pressure from water works or pump which can be put into instant action, or for each such area there shall be a two and one-half inch metallic standpipe with metallic ladder attached above the first story, located upon the outside of the wall extending above the roof and so situated as to be accessible from the roof and from each story above the first, with valves and male hose connec-

tions at every story and on the roof, and female hose connection at base of the pipe of such size and pattern as to allow connection with the equipment of the local fire department. There shall also be provided for each eighty-five hundred feet of such area or fractional part thereof at least one efficient chemical fire extinguisher on each floor containing sleeping apartments. If, for lack of water works or steam to operate pumps the inside standpipe is not practicable, then, in addition to the fire extinguishers there shall be placed in the hallway on each floor containing sleeping apartments one barrel of water and two pails labeled "For fire purposes only." For each twenty-five hundred feet of area or fraction thereof on such floor, a red light shall be kept burning all night at the head of each stairway above the first floor, and that near each approach to a stationary fire escape in each sleeping room above the first floor the following printed notice shall be conspicuously posted: "Exit in case of fire. Upon leaving this room turn to the (here insert right or left) and by passing (here insert distance in feet) you will reach a red light which indicates (here insert fire escape or stairway)." ('13 c. 569 § 7)

5120. Same—Fire escapes, etc.—Towels, bedding, etc.—Vermin—Notices—Penalty for violation—Duty of county attorney—That within six months after the passage of this act every hotel and restaurant in this state, occupied and used as such, and which is more than three stories high shall be equipped with an iron stairway on the outside of the building extending from the cornice of said building to within twelve feet of the ground, and connecting on each floor above the ground with an opening from such floor, which stairway shall have platform landings at each floor not less than six feet in length and three feet in width, and which stairway and landing shall be guarded by an iron railing not less than thirty inches in height and shall be safely fastened and secured. Said stairway shall not be less than two feet wide, the steps not less than six inch tread and shall be placed at an angle of not more than forty-five degrees. The way of egress to such fire escape shall at all times be kept free and clear of any and all obstructions of any and every nature. Fire escapes shall be placed where the hotel inspector may direct. And if there are more than fifteen sleeping rooms on each floor above the third floor there shall be provided one such described fire escape for fifteen sleeping rooms on each floor, every hotel less than four stories high shall have hallways placarded to indicate all stairways and exits, and shall keep a five-eighths inch Manilla rope of sufficient length to reach the ground, having knots at least every fifteen inches apart, in each bedroom, such rope to be fastened six feet above the floor near a window in a substantial manner and capable of sustaining at least five hundred pounds weight.

Provided, however, that nothing in this section shall be construed to prevent the use of any recognized automatic fire escape, in lieu of knotted rope.

Whenever it shall be proposed to erect a building three stories or more in height intended for use as a hotel in this state, it shall be the duty of the owner, contractor, or builder of such hotel to construct same so that the main hall on each floor above the ground shall run through to the outside wall of said building, and every building converted into a hotel after the passage of this act must comply with the provisions thereof.

Provided, however, that the provisions of this act relating to outside fire escapes and ropes or automatic appliances shall not apply to hotels having or making provisions for interior fire proof stairways approved as such by the hotel inspector.

All hotels in this state shall hereafter provide each bedroom with at least two clean towels daily for each guest, and shall also provide the main public wash room with clean, individual towels, maintaining same in view and reach and for the use of guests during the regular meal hours, and where no regular meal hours are maintained, then between the hours of 6:30 a. m. and 9:00 a. m. and 11:30 a. m. and 2:00 p. m. and 6:00 p. m. and 8:00 p. m. so that no two or more guests will be required to use the same towel unless it has first been washed. Such individual towels shall not be less than ten inches wide and fifteen inches long after being washed; provided that this shall not prohibit the use of individual towels in such wash-rooms.

§ 5124 PROTECTION AGAINST FIRE AND REGULATION OF HOTELS, ETC. 1121

All hotels hereafter shall provide each bed, bunk, cot or sleeping place for the use of guests with pillow slips and under and top sheets; each sheet on and after January first, 1914, shall be made 99 inches long and of sufficient width to completely cover the mattress and springs; provided that a sheet shall not be used which measures less than 90 inches after being laundered. Said sheets and pillow slips to be made of white cotton or linen, and all such sheets and pillow slips, after being used by one guest must be washed and ironed before they are used by another guest, a clean set being furnished each succeeding guest.

All bedding, including mattresses, quilts, blankets, pillows, sheets, and comforts used in any hotel in this state must be thoroughly aired, disinfected and kept clean. Provided that no bedding including mattresses, quilts, blankets, pillows, sheets, or comforts shall be used which are worn out or unfit for further use.

Any room in any hotel or restaurant, infected with vermin or bed bugs, shall be fumigated, disinfected, and renovated at the expense of the proprietor of the said hotel until said vermin or bed bugs are exterminated.

All notices to be served by the hotel inspector provided for in this act, shall be in writing and shall be either delivered personally, or by registered letter, to the owner, agent, lessee or manager of such hotel or restaurant.

Any person, firm or corporation who shall operate a hotel or restaurant in this state or who shall let a building used for such business without having first complied with the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days.

The county attorney of each county in this state is hereby authorized and required upon complaint on oath of the hotel inspector or other persons, to prosecute to termination before any court of competent jurisdiction in the name of the state of Minnesota, a proper action or proceeding against any person or persons violating the provisions of this act. ('13 c. 569 § 8)

5121. **Same—Cancellation of license**—Whenever the owner, manager or person in charge of any hotel or restaurant shall have been convicted as provided in the preceding section, and shall for a period of sixty days after such conviction, fail to comply with any provisions of this act, the license granted to such person to conduct such business may be cancelled by the hotel inspector. ('13 c. 569 § 9)

5122. **Same—Deputy inspectors—Stenographer—Salaries**—The hotel inspector shall appoint one deputy inspector at a salary of fifteen hundred dollars (\$1500) per year, whose term of office shall be of the same duration as that of the hotel inspector, and also one stenographer at a salary not to exceed nine hundred dollars (\$900.00) per annum, who shall assist under his direction in performing the duties imposed by this act. ('13 c. 569 § 10)

5123. **Same—Expenses, how paid, etc.**—On or before the 15th day of each month, the hotel inspector shall certify to the state auditor the amount due to each of his deputies as compensation and necessary expenses for the preceding month, also the items and amounts of all expenses necessarily incurred by him in the performance of his duties, including the cost of blanks, stationery, postage and travel, and also the amount due the stenographer as compensation for the preceding month, and such salaries, mileage and expenses being duly audited shall be paid by the state.

For the payment of the hotel inspector, his deputies, and stenographer and the expenses provided for in this chapter, the sum of sixteen thousand (\$16,000.00) dollars, or so much thereof as may be necessary, is hereby annually appropriated out of the general fund of this state, for the purpose of carrying into effect the provisions of this act. The office of the hotel inspector shall be in the state capitol. ('13 c. 569 § 11)

As to standing appropriations, see §§ 48, 49.

5124. **Same—License to be posted—Prosecutions**—Every hotel and restaurant securing a license under the provisions of this act shall keep the same posted in a conspicuous place in the office of such hotel or restaurant.

All prosecutions under this act shall be conducted by the county attorney of the county in which the offense was committed. ('13 c. 569 § 12)

5125. Halls and theaters—Fire resistant curtain—That the proscenium or curtain opening of all halls and theaters used for theatrical purposes and having a seating capacity of 600 or more in any city in the state of Minnesota shall have a fire resistant curtain of asbestos or some other approved incombustible material. Said curtain shall be properly constructed; shall be operated by proper mechanism and shall be raised at the commencement of each performance and lowered at the close of each performance. ('05 c. 319 § 1)

5126. Same—Inspector—Duties—Fees—That it shall be the duty of the common council of every city in the state of Minnesota, to appoint some competent person as inspector of halls and theaters. It shall be his duty to inspect every hall and theater in his city at least once in each year to see that the provisions of section one [5125] of this act have been complied with. He shall receive for each hall or theater inspected by him a fee of three dollars to be paid by the owner or tenant of such hall or theater. ('05 c. 319 § 2)

5127. Same—Certificate as evidence—That the certificate of such inspector shall be prima facie evidence of the compliance with the provisions of this act for the space of one year from the date thereof. ('05 c. 319 § 3)

5128. Same—Penalty for violation—The owner or owners, tenant or tenants of any hall or theater in any city of this state failing or neglecting to comply with the provisions of section one [5125] of this act shall be liable to a fine of not more than three hundred dollars and not less than fifty dollars. ('05 c. 319 § 4)

STATE FIRE MARSHAL

5129. Appointment of marshal and assistant—Terms—Bond, etc.—The governor by and with the consent of the senate shall appoint a state fire marshal and a chief assistant state fire marshal for a term of two years. Within ten days after the passage of this act the governor shall appoint a state fire marshal and a chief assistant state fire marshal who shall serve until January 1, 1915, and until their successors are appointed and qualify. The state fire marshal shall give bond to the state in the penal sum of ten thousand (\$10,000) dollars, conditioned for the faithful discharge of his duties. The state fire marshal, the chief assistant and deputies shall take and subscribe and file in the office of the secretary of state the constitutional oath within fifteen days from the time of their appointment, respectively. ('13 c. 564 § 1)

Section 34 repeals 1905 c. 331, as amended by 1907 c. 451, and 1911 c. 203, and all other inconsistent acts and parts of acts.

5130. Duties and powers—It shall be the duty of the state fire marshal to enforce all laws of the state, thereof, as follows:

1. The prevention of fires.
2. The storage, sale and use of combustibles and explosives.
3. The means and adequacy of exits, in case of fire, from churches, schools, halls, theaters, amphitheaters and all other places in which numbers of persons congregate from time to time for any purpose.
4. The suppression of arson and investigation of the cause, origin and circumstances of fires.
5. The state fire marshal, chief assistant fire marshal and deputies shall have such other powers and perform such other duties as are set forth in other sections of this act, as may be conferred and imposed from time to time by law. ('13 c. 564 § 2)

5131. Deputies, inspectors, clerks, etc.—The state fire marshal is hereby empowered and required to appoint two deputy fire marshals to be designated as first and second deputy fire marshal, and such other special deputies, inspectors, and clerks as may be necessary to properly carry on the work of the department. All deputies shall be required to pass a civil service examination to be prepared by the state fire marshal; said deputies can be removed by the state fire marshal for cause for the good of the service, otherwise they shall hold their positions as long as they are rendering faithful and efficient service, regardless of their political affiliations. ('13 c. 564 § 3)

5132. **Special attorney**—The attorney general may appoint a special attorney for the department whose work shall be under the supervision of the attorney general, who shall fix his compensation, such compensation to be paid out of the fund created under this act. ('13 c. 564 § 4)

5133. **Duties of assistant and deputies, etc.**—The duties of the chief assistant and the deputy fire marshals shall be to assist the state fire marshal. In the event of a vacancy in the office of state fire marshal and until a successor is appointed, or during the absence and disability of that officer, the chief assistant fire marshal shall assume the duties of that office. ('13 c. 564 § 5)

5134. **Investigations by officers of municipalities—Record and statistics—**

1. The chief of the fire department of every city or village in which a fire department is established, and the mayor of every incorporated city in which no fire department exists, and the president of the village board of every incorporated village in which no fire department exists, and the town clerk of every organized township without the limits of any organized city or village shall investigate or cause to be investigated the cause, origin and circumstances of every fire occurring in such city, village or town by which property has been destroyed or damaged when the damage exceeds twenty-five dollars, except that all fires of unknown origin shall be reported, and shall especially make investigation as to whether such fire was the result of carelessness, accident or design.

2. Such investigation shall be begun within two days of the occurrence of such fire, and the state fire marshal shall have the right to supervise and direct such investigation whenever he deems it expedient or necessary.

3. The officer making investigation of fires occurring in cities, villages and towns shall forthwith notify said state fire marshal and shall within one week of the occurrence of the fire, furnish to the said fire marshal a written statement of all the facts relating to the cause and origin of the fire, and such further information as may be called for by the blanks furnished by said state fire marshal. The state fire marshal shall keep in his office a record of all fires occurring in the state, together with all facts, statistics and circumstances including the origin of the fires, which may be determined by the investigation provided by this act; such statistics shall be at all times open to public inspection. ('13 c. 564 § 6)

5135. **Taking testimony—Arrests—Record**—The state fire marshal shall, when in his opinion further investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall cause such person to be arrested and charged with such offense, and shall furnish to the proper prosecuting attorney all such evidence, together with the copy of all names of witnesses and all the information obtained by him, including a copy of all pertinent and material testimony taken in the case; and shall keep a record of the proceedings and progress made in all such prosecutions for arson and the result of all cases finally disposed of. ('13 c. 564 § 7)

5136. **Witnesses, etc.—Summons—Compensation—Investigations, how conducted—Contempt**—1. The state fire marshal, chief assistant fire marshal, and deputy state fire marshals shall each have the power in any county of the state of Minnesota, to summon and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which is by the provisions of this act a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto by them or either of them. Such summons shall be served in the same manner and have the same effect as subpoenas from district courts. All witnesses shall receive the same compensation as is paid to witnesses in district courts which shall be paid out of the fire marshal fund, upon vouchers signed by the state fire marshal, chief assistant fire marshal or deputy fire marshal

MINNESOTA STATUTES 1913

1124 PROTECTION AGAINST FIRE AND REGULATION OF HOTELS, ETC. § 5136

before whom any witnesses shall have attended, and such officer shall at the close of the investigation wherein such witness was subpoenaed certify to the attendance and mileage of such witness, which certificate shall be filed in the office of the state fire marshal. All investigations held by or under the direction of said state fire marshal, or his subordinates, may, in his discretion be private, and persons other than those required to be present by the provisions of this act, may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

2. Said state fire marshal, chief assistant state fire marshal, and deputy state fire marshals are each hereby authorized and empowered to administer oaths and affirmations to any person appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such.

3. Any witness who refuses to be sworn, or who refuses to testify or who disobeys any lawful order of said state fire marshal, chief assistant fire marshal, or deputy state fire marshal in relation to said investigation, or who fails or refuses to produce any paper, book or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation as aforesaid, may be summarily punished by the said state fire marshal, chief assistant state fire marshal or deputy state fire marshals, as for contempt by a fine in a sum not exceeding one hundred dollars or be committed to the county jail until such time as such person may be willing to comply with any reasonable order made by the said state fire marshal, chief assistant state fire marshal or deputy state fire marshals, as provided in this act, and subject to the provisions of chapter 91, section 4639, Revised Laws 1905 [8354]. ('13 c. 564 § 8)

Defendant not entitled to inspection of testimony furnished under 1911 c. 203 for purpose of motion to quash indictment (117-384, 135+1128).

5137. **Disobedience, how punished**—Disobedience of any subpoena in such proceedings, or contumacy of a witness, may, upon application of the state fire marshal, be punished by any district court in the same manner as if the proceedings were pending in such court. ('13 c. 564 § 9)

5138. **Power of state marshal, etc., to enter premises**—In the performance of the duties imposed by the provisions of this chapter, the state fire marshal and such of his subordinates, at all times of day or night may enter upon and examine any building or premises where a fire has occurred, and other buildings and premises adjoining or near thereto. ('13 c. 564 § 10)

5139. **Power of other officials to enter premises**—The state fire marshal, his chief assistant, deputies and subordinates, the chief of the fire department of each city or village where a fire department is established, the mayor of a city or village where no fire department exists, or the clerk of a township in territory without the limits of a city or village, at all reasonable hours may enter into all buildings and upon all premises within their jurisdiction for the purpose of examination. ('13 c. 564 § 11)

5140. **Buildings to be repaired or demolished—Combustibles, explosives, etc.—Orders—Penalty**—If the state fire marshal, chief assistant state fire marshal, or deputy fire marshal, upon an examination or inspection finds a building or other structure, which for want of proper repair, by reason of age and dilapidated condition, defective or poorly installed electrical wiring and equipment, defective chimneys, defective gas connections, defective heating apparatus, or for any other cause or reason is especially liable to fire and which building or structure is so situated as to endanger other buildings or property, such officer shall order such building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. If such officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of such buildings or property, he shall order such materials removed or conditions remedied.

§ 5144 PROTECTION AGAINST FIRE AND REGULATION OF HOTELS, ETC. 1125

Such order shall be made against the owner, lessee, agent or occupant of such building or premises, and after the service thereof as provided in section 14 [5142] of this act, the owner, lessee, agent or occupant of such building or structure, as the case may be, shall comply with such order within the time fixed in said order. Any persons who shall interfere in any way with the state fire marshal, chief assistant fire marshal or deputy fire marshals in the performance of their duties herein shall be guilty of a misdemeanor. ('13 c. 564 § 12)

5141. Removal of dangerous conditions—Penalty—If the state fire marshal, chief assistant or deputies shall find on any premises or in any building conditions that are a menace and dangerous to the safety of life and limb of the occupants of said building or adjacent buildings, they are empowered to issue the necessary order for the removal or correction of the dangerous conditions forthwith, and any owner, lessee, agent or occupant of said premises upon whom said order is served failing to comply with said order within the time specified shall be guilty of a misdemeanor. ('13 c. 564 § 13)

5142. Orders, how served—When to be complied with—All orders made by the state fire marshal, chief assistant fire marshal or any deputy fire marshal under sections 12 and 13 [5140, 5141] of this act shall be in writing and shall be served upon such owner, lessee, occupant or agent in the same manner as a summons is served in district court; except in cases where such order is served by publication, a three weeks' publication in the county where such building or structure is situated shall be sufficient. Said order with proof of service shall be filed in the office of the clerk of the district court of the county in which said property or premises are situated within two days after the service thereof, and said order shall be complied with by the person on whom said order is served within ten days after the filing of the same, unless a longer time is fixed in said order for compliance therewith. ('13 c. 564 § 14)

5143. Appeals from orders—If a person is aggrieved by any order of the fire marshal, chief assistant fire marshal or any deputy fire marshal, he may appeal from any such order to the district court of the county in which said property or premises are situated within ten days after the filing of said order. The notice of appeal shall state that he appeals to the district court of the county wherein said property or premises are situated and said notice shall be signed by the person appealing or his attorney, a copy of which notice of appeal shall be mailed to the state fire marshal at St. Paul, Minnesota, by registered mail at the usual postoffice of the person appealing or his attorney. Provided, a copy of said notice of appeal mailed as aforesaid by registered mail at the county seat of the county in which said property or premises are situated shall be deemed a compliance with this section. Said notice of appeal, with proof of mailing of a copy thereof to the state fire marshal, registered as aforesaid, shall be filed in the office of the clerk of the district court of said county within ten days after the filing of said order, and such appeal shall suspend the operation of the order appealed from until the appeal is finally determined. The trial of all issues on such appeal shall be de novo and such appeal shall be heard and tried in the same manner as other issues of law and fact are heard and tried in such court, and the order appealed from shall have no force or effect in the determination of such appeal. The district court shall hear and determine the appeal within ten days or as soon thereafter as possible from the date of the filing of the same, at any place in the judicial district to be designated by the judge of said court. In case the decision is against the appellant or for any cause the appeal is dismissed judgment for costs shall be entered against the appellant. ('13 c. 564 § 15)

5144. Failure to comply with order—Enforcement, expenses, etc.—If any person fails to comply with an order of an officer under the last three preceding sections and within the time fixed, then such officer is empowered and authorized to cause such building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be and at the expense of such person, and if such person within

thirty days thereafter fail, neglect or refuse to repay said officer the expense thereby incurred by him, such officer shall certify said expenses, together with twenty-five per centum penalty thereon to the county auditor of the county in which said property is situate and said county auditor shall enter said expense on the tax lists of said county as a special charge against the real estate on which said building is or was situate and the same shall be collected as other taxes and when collected, shall together with the penalty thereon be paid into the state treasury and credited to the fund of the state fire marshal. ('13 c. 564 § 16)

5145. Wilful failure a misdemeanor—Any person or persons, being the owner, occupant, lessee or agent of buildings or premises who wilfully fails, neglects or refuses to comply with any order of any officer named in the last four preceding sections, shall be guilty of a misdemeanor and shall be fined not more than fifty dollars nor less than ten dollars for each day's neglect. This section shall not apply where an appeal is taken as aforesaid. ('13 c. 564 § 17)

5146. Orders, on whom served—In all cases where any order of the state fire marshal or chief assistant fire marshal, or any deputy fire marshal, shall require the repair, removal, tearing down or destruction of any building or structure, the same shall be served upon the owner of such building or structure, and if the same be occupied by a tenant or lessee, then in addition to the service upon such owner, said order shall also be served upon such lessee or tenant as the case may be. ('13 c. 564 § 18)

5147. Reports by insurance companies—Every fire insurance company authorized to transact business in this state is hereby required to report to the state fire marshal through the secretary or other officer of the company designated by the board of directors for that purpose, all fire losses on property insured in any such company, giving the date of fire, the amount of probable loss, the character of property destroyed or damaged, and the supposed cause of the fire together with the amount of insurance carried by such company. Such report shall be mailed to the state fire marshal within three days after notice of loss is received by such company. Each company is hereby also required to report the amount of loss adjusted on each fire after adjustment is made. Such report shall be in addition to and not in lieu of any report or reports such companies may be required to make by any law of this state to the commissioner of insurance. ('13 c. 564 § 19)

5148. Neglect of local officers—Penalty—Any officer referred to in section 6 [5134] of this act, who neglects to comply with any of the requirements of this act shall upon conviction be punished by a fine of not less than twenty-five (\$25) dollars nor more than one hundred (\$100) dollars for each neglect or violation. ('13 c. 564 § 20)

5149. Salaries—Fees—The state fire marshal shall receive an annual salary of three thousand (\$3,000) dollars, the chief assistant fire marshal shall receive an annual salary of two thousand five hundred (\$2,500) dollars, the first deputy fire marshal shall receive an annual salary of one thousand eight hundred (\$1,800) dollars and the second deputy fire marshal shall receive an annual salary of one thousand five hundred (\$1,500) dollars, payable monthly. All officers who shall perform any service at the request of any such state fire marshal, chief assistant fire marshal, or deputy fire marshal, shall receive the same fees as officers in justice court, and such fees shall be paid out of the fire marshal fund in the same manner as witnesses testifying under this act. ('13 c. 564 § 21)

5150. Clerks, assistants and expenses—Said state fire marshal shall employ clerks and assistants, and incur such other expense as may be necessary in the performance of the duties of the office, including necessary traveling expenses, not to exceed, including salaries, such sum as may be paid into the state treasury in the manner hereinafter provided. Provided that no clerks or assistants shall be appointed, except as expressly provided for in this act until the necessity for such appointment shall first be passed upon by the governor and approved by him. ('13 c. 564 § 22)

5151. Expenses, how paid—Tax on insurance companies—Special fund— For the purpose of maintaining the department of state fire marshal and paying all the expenses incident thereto, every fire insurance company doing business in the state of Minnesota, shall hereafter pay to the state treasurer on or before March first 1914 and annually thereafter, a tax upon its fire premiums or assessments or both, as follows: a sum equal to three-eighths of one per cent of the gross premiums and assessments, less return premiums, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise, provided, however that this act shall in no way affect the tax due March 1st, 1913 and the payment thereof. In the case of a mutual company the dividends paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be set aside as a special fund and is hereby appropriated for the maintenance of such office of state fire marshal and the expenses incident thereto. The state shall not be liable in any manner for the salary of said fire marshal, his chief assistant, deputies, clerks and other employes or for the maintenance of the office of fire marshal or any expenses incident thereto, and the same shall be payable only from the special fund provided for in this section. ('13 c. 564 § 23)

5152. Itemized statement—The state fire marshal shall keep on file in his office an itemized statement of all expenses incurred by his department and shall approve all vouchers issued therefor, before the same are submitted to the state auditor for payment, which said voucher shall be allowed and paid in the same manner as other claims against the state. ('13 c. 564 § 24)

5153. Office—The state fire marshal or one of his chief subordinates shall at all times be in the office of the fire marshal at the state capitol ready for such duties as are required by this act. ('13 c. 564 § 25)

5154. Records, when public—All records on file in the fire marshal department shall be public, except any testimony, correspondence or other matter taken in an investigation under the provisions of this act which the state fire marshal in his discretion may withhold from the public. ('13 c. 564 § 26)

5155. Duty of county attorney—The county attorney of any county, upon request of the state fire marshal, his deputies or assistants, shall assist such officers upon an investigation of any fire which, in their opinion, is of suspicious origin. ('13 c. 564 § 27)

5156. Fire drills in schools, etc.—It shall be the duty of the state fire marshal, his deputies and assistants to require teachers of public and private schools and educational institutions to have one fire drill each month and to keep all doors and exits unlocked during school hours. ('13 c. 564 § 28)

5157. Penalties, fees, etc.—How paid—All penalties, fees or forfeitures collected under the provisions of this act shall be paid into the treasury of the state for the benefit of the state fire marshal fund. ('13 c. 564 § 29)

5158. Construction of act, etc.—It is hereby declared that this act is necessary for the public safety, health, peace and welfare, is remedial in nature, and shall be construed liberally, and this act shall not be declared unconstitutional and void for the reason that any section or provision thereof may be in contravention of the constitution. ('13 c. 564 § 30)

5159. Annual report—The fire marshal shall submit annually as early as consistent with full and accurate preparation, and not later than the fifteenth day of February, a detailed report of his official action to the governor. ('13 c. 564 § 31)

5160. Compensation to officers of municipalities—1. There shall be paid to the chiefs of fire departments, and mayors of cities, who do not receive to exceed fifty dollars annually as compensation for their services as such chiefs, and mayors, and to presidents of the village boards, and to the township clerks of every organized township, who are by this act required to report fires to the state fire marshal, the sum of one dollar for each fire reported to the satisfaction of the state fire marshal, and in addition thereto, mileage at the rate of ten cents

per mile for each mile traveled to and from the place of fire. Said allowance shall be paid by the state fire marshal at the close of each fiscal year out of any funds appropriated as heretofore provided for the use of the office of said state fire marshal.

2. All chiefs of departments who receive a stated salary and devote their entire time to the duties of chiefs of the department, and those mayors of cities who receive a stated salary exceeding fifty dollars as such officer shall be precluded from receiving any extra allowance from the report herein mentioned. ('13 c. 564 § 32)

5161. **Statements of assured as evidence**—No statement or admission of assured in any fire insurance policy given to the fire marshal department in any investigation or proceeding had by that department shall be used in any civil action based upon such policy of insurance. ('13 c. 564 § 33)

MATCHES

5162. **Manufacture, storage or sale of certain matches prohibited**—That no person, association, or corporation, shall manufacture, store, offer for sale, sell, or otherwise dispose of, or distribute, white phosphorous, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches"; nor manufacture, store, sell, offer for sale, or otherwise dispose of, or distribute, white phosphorous, double-dipped, strike-anywhere matches or any other type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition, non-ignitable on an abrasive surface; nor manufacture, store, sell, offer for sale or otherwise dispose of, or distribute, matches which will ignite in a laboratory oven at a temperature of less than 200 degrees F. when subjected in said oven to a gradually increasing heat and maintained at the before stated continuous temperature for a period of not less than eight hours; nor manufacture, store, offer for sale, sell or otherwise dispose of, or distribute, Blazer, or so-called wind matches, whether of the so-called safety or strike-anywhere type. ('13 c. 99 § 1)

Section 5 repeals all laws in conflict, etc.

5163. **Brands and trade-marks—Retail stores—Warehouses, etc.—How packed, etc.**—No person, association, or corporation, shall offer for sale, sell or otherwise dispose of, or distribute any matches, unless the package or container in which such matches are packed, bears plainly marked on the outside thereof, the name of the manufacturer and the brand or trade-mark under which such matches are sold, disposed of, or distributed; nor shall more than one case of each brand of matches of any type or manufacture be opened at any one time in any retail store where matches are sold or otherwise disposed of; nor shall loose boxes, or paper wrapped packages, of matches be kept on shelves or stored in such retail stores at a height exceeding five feet from the floor; all matches, when stored in warehouses, excepting manufacturer's warehouse at place of manufacture, when such warehouse contains automatic sprinkler equipment, must be kept only in properly secured cases, and not piled to a height exceeding ten feet from the floor; nor be stored within a horizontal distance of ten feet from any boiler, furnace, stove or other like heating apparatus, nor within a horizontal distance of twenty-five feet from any explosive material kept or stored on the same floor; all matches shall be packed in boxes or suitable packages, containing not more than seven hundred matches in any one box or package; Provided, however, that when more than three hundred matches are packed in any one box or package, the said matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions; and all boxes containing three hundred and fifty or more matches, shall have placed over the matches a center holding or protecting strip, made of chip board, not less than one and one-quarter inches wide, said strip shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it. ('13 c. 99 § 2)

5164. **Containers or cases—Number of boxes or packages—How marked**—All match boxes or packages shall be packed in strong shipping contain-

ers or cases; maximum number of match boxes or packages contained in any one shipping container or case, shall not exceed the following number:

| Number of boxes. | Numerical number of matches per box. |
|-----------------------------------|--------------------------------------|
| 1/2 gross | 700 |
| 1 gross | 500 |
| 2 gross | 400 |
| 3 gross | 300 |
| 5 gross | 200 |
| 12 gross | 100 |
| 20 gross. Over 50 and under | 100 |
| 25 gross. Under | 50 |

No shipping container or case constructed of fibre-board, corrugated fibre-board, or wood, nailed or wire-bound, containing matches, shall have a weight, including its contents, exceeding seventy-five (75) pounds; and no lock-cornered wood case containing matches shall have a weight, including its contents, exceeding eighty-five (85) pounds; nor shall any other article or commodity be packed with matches in any such container or case; and all such shipping containers or cases containing strike-anywhere matches, shall have plainly marked on the outside thereof the words "STRIKE-ANYWHERE MATCHES" and all shipping containers or cases containing "Strike on Box" matches shall have plainly marked on the outside thereof the words "STRIKE ON BOX MATCHES." ('13 c. 99 § 3)

5165. Penalty for violation—Any person, association, or corporation, violating any of the provisions of the act, shall be fined for the first offense, not less than five dollars (\$5.00), nor more than twenty-five dollars (\$25.00); and for each subsequent violation, not less than twenty-five dollars (\$25.00). ('13 c. 99 § 4)

5166. When to take effect—This act shall become effective on the first day of June, A. D. 1914. ('13 c. 99 § 6)

CHAPTER 37

NOXIOUS WEEDS

5167. Weeds declared noxious—Each of the plants mentioned in this section is hereby declared to be a noxious weed and a common nuisance. No person owning, occupying, or controlling land shall permit:

1. Any wild mustard, wild oats, cocklebur, burdock, or tumble mustard to go to seed thereon.
2. Any Canada thistle, oxeye daisy, or quack grass to go to seed thereon, or, for more than two successive years, to reproduce itself thereon by crowns, underground stems, or buds.
3. Any French weed to produce seeds thereon for more than four successive years.
4. Any Russian thistle to grow or remain thereon at all. (2375)
1895 c. 273 held constitutional (92-374, 100+95).

5168. In highways—For all purposes of this chapter, the half of any road or street lying next to the lands abutting thereon shall be considered a part of such land. No person owning, occupying, or controlling land shall permit any noxious weed, or any white daisy, snapdragon, or toad flax, sow thistle, sour dock, yellow dock, or other weeds or grasses, to produce seed upon such adjoining half of the highway. (2376)

5169. How and by whom enforced—Complaint—Notice—The chairman of each town board and the mayor or president of the council of each municipal corporation are hereby empowered and required to give the notices provided for in this chapter, and cause the provisions hereof to be enforced. Upon written complaint made to any such official that noxious or other