

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General; construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1938

3238-2½ b. Application.—Nothing in this act shall be held or construed to repeal or in any way modify, amend or effect any existing statute in this state relating to intoxicating liquor. (Act Apr. 19, 1929, c. 249, §3.)

3238-3. Places where sale forbidden.

Enforcement provisions of licensed public drinking places and local option laws are not now effective. Op. Atty. Gen., May 18, 1933.

County board with approval of state fair board and board of town in which state fair grounds are situated may issue license to sell nonintoxicating beer to a restaurant to be located on fair grounds for three days. Op. Atty. Gen., June 17, 1933.

Section still in force. Op. Atty. Gen., June 21, 1933. Local option vote was of no effect in Indian territory. Op. Atty. Gen., Mar. 8, 1934.

Dry vote in village of North Mankato was without effect upon right of city of North Mankato to issue liquor licenses. Op. Atty. Gen., Mar. 19, 1934.

Licenses may be issued for sale of intoxicating liquors in city of Cloquet within the Indian country. Op. Atty. Gen. (218j-9), Oct. 20, 1934.

3238-4 to 3238-9.

Sections are still in force. Op. Atty. Gen., June 21, 1933.

Annotations under 3238-9.

A person of Indian blood is one having Indian blood in his veins regardless of whether it is from father's side or the mother's side. Op. Atty. Gen., Feb. 26, 1934.

3238-10. Giving to, or procuring or purchasing for, minors, etc.

Gift of liquor to minor is a gross misdemeanor under Laws 1911, c. 290, and not a felony. Op. Atty. Gen., Apr. 10, 1933.

One making gift of intoxicating liquor to minor is guilty of gross misdemeanor and not felony. Op. Atty. Gen., Apr. 10, 1933.

Section still in force. Op. Atty. Gen., June 21, 1933.

3238-11 to 3238-25.

Sections are still in force. Op. Atty. Gen., June 21, 1933.

CIVIL ACTIONS

3239. Action for injuries caused by intoxication.

Makers and sellers of moonshine are liable to wife of buyer for injury to her support. *Benes v. C.*, 186M578, 244NW72. See Dun. Dig. 4928a.

CHAPTER 16A

Cigarettes

3242. Licensing of sale of cigarettes, etc.

This statute does not require that a department of the State, such as the State University obtain a license before selling cigarettes. Op. Atty. Gen., Nov. 10, 1931.

Owners and operators of machines vending cigarettes purchased by them in wholesale lots must have retailer's license. Op. Atty. Gen., Apr. 2, 1934.

Representatives, agents and employees of large tobacco companies going about the state and decorating windows may be required to obtain licenses where they carry cigarettes along with them to supply dealers who are short on orders or whose cartons have dried out. Op. Atty. Gen. (829c-6), June 26, 1935.

License is unnecessary for sale on trains. Op. Atty. Gen. (829e-6), July 10, 1935.

3243. Licenses for sale and manufacture of cigarettes.

License for the manufacture, sale, exchange, barter, disposition of or giving away or keeping for sale of cigarettes, cigarette paper or cigarette wrappers for the making of cigarettes may be granted by the state dairy and food commissioner, who shall provide a suitable blank form of application for the use of applicant. The fee for such license shall be twelve (12) dollars and shall expire on December 31, next after its issue, and no license shall be issued for a longer term than one year, and shall not be transferable from one person to another person or from the ownership to whom issued to another ownership. Provided, that a license issued for less term than one year, the fee for same shall be computed at the rate of one dollar for each calendar month or fractional part of such month. A penalty of fifty per cent of the license fee shall be imposed if license is not applied for within the same calendar month that first sale of cigarettes is made. Each store where such cigarettes, cigarette paper or cigarette wrappers for the making of cigarettes are sold at retail shall pay the license fee herein provided for; provided, that any duly licensed manufacturers, jobber or wholesaler, may, under his license as such, sell and deliver from his established place of business or otherwise, cigarettes, cigarette paper or cigarette wrappers for the making of cigarettes, to any person within the State of Minnesota then having a license as herein provided. Provided further, that a license fee due either in January or February, 1936, may be paid prior to April 1, 1936, without a penalty, and provided further, that any penalties heretofore paid, on account of the fee imposed herein, shall be refunded to the parties who made such payment or payments. ('19, c. 348, §4; Mar. 16, 1933, c. 86; Apr. 10, 1933, c. 187; Feb. 27, 1935, c. 25; Jan. 24, 1936, Ex. Sess., c. 86.)

Under Laws 1933, c. 187, one license is sufficient when sale is made in two buildings joined by an archway, one side being operated as a tavern and other as hotel, if both are considered as one business. Op. Atty. Gen., Aug. 25, 1933.

Traders in cigarettes on Indian reservations must have license if they are white men or Indians who have given up their tribal relations, but not if they are tribal Indians. Op. Atty. Gen., Sept. 15, 1933.

Laws 1933, c. 187, amending this section, was not repealed by Laws 1925, c. 25, and such amendment is still in effect. Op. Atty. Gen. (829b), Apr. 8, 1935.

License must be obtained by owner of store where cigarettes are sold by vending machine owned by another company. Op. Atty. Gen. (829c), Mar. 16, 1936.

Calendar month provision does not modify penal provisions of §§3242, 3249, and sale without a license is a misdemeanor. Op. Atty. Gen. (829c-6), Mar. 20, 1937.

3244. Written application to be filed.

A licensee having several stands for the sale of cigarettes in a building designed for a single purpose and under a single control is not required to obtain more than one license; and in the case of a club the same rule would apply whether sales were made to members of the club or to outsiders. Op. Atty. Gen., Mar. 1, 1930.

3245. When license is not to be granted.

Cigarette license should not be granted to an exclusive liquor store. Op. Atty. Gen., Mar. 26, 1934.

3248. Disposition of cigarette license fees.—The fees collected under the provisions of this act shall be paid into the state treasury by the dairy and food commissioners. The state treasurer shall transmit ninety per cent of such license money annually to the treasurer of the city, village or township from which the license is issued. The remaining ten per cent shall be credited to the General Revenue fund. ('19, c. 348, §9; Apr. 23, 1929, c. 291, §1.)

Refunds cannot be made to persons who obtained and paid for cigarette licenses and went out of business before the end of the current year for which the license was paid, unless money is appropriated for that purpose. Op. Atty. Gen., Nov. 24, 1931.

A municipality selling cigarettes at amusement centers is not obliged to obtain a license. Op. Atty. Gen., Jan. 29, 1932.

Penalties remain in state treasury and only fee should be distributed to local municipalities. Op. Atty. Gen., Apr. 5, 1932.

Refunds on licenses issued on state fair grounds should be credited to general revenue funds. Op. Atty. Gen. (196h), Nov. 17, 1936.

3249. Violation a misdemeanor.

Where one is vending cigarettes by machine without retailer's license, inspector may take entire machine and its contents as evidence, but must return it after trial. Op. Atty. Gen., Apr. 2, 1934.