

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

the State Livestock Sanitary Board shall have exclusive jurisdiction and control over all matters pertaining to poultry diseases and the control and eradication thereof. And the State Livestock Sanitary Board is hereby authorized to formulate, adopt and enforce rules and regulations whereby owners of poultry breeding flocks may, upon agreement with the said board, have such flocks examined, tested and officially designated as tested, approved or accredited free from bacillary white diarrhea, tuberculosis or other communicable infectious diseases when and as approved methods for official testing for such other diseases may be adopted by the said board; provided there are necessary personnel and available funds appropriated for the use of the said board in making such tests and inspections. In order to distinguish eradication of specific diseases, the abbreviation for the disease shall be prefixed to the words "tested," "approved" or "accredited," as "T. B. Tested," "T. B. Approved" and "T. B. Accredited" for tuberculosis and "B.W.D. Tested," "B.W.D. Approved" and "B.W.D. Accredited" for bacillary white diarrhea. (Act Apr. 25, 1931, c. 408, §6.)

**5460-13. Products to be labeled.**—All poultry and poultry products shipped under the authority of this act shall be uniformly labelled with designs prescribed and furnished by the Minnesota Poultry Improvement Board, provided that all labeling for testing, approval and accreditation as to disease shall first be approved by the State Livestock Sanitary Board. (Act Apr. 25, 1931, c. 408, §7.)

**5460-14. Certain advertising prohibited.**—No person, firm, association, partnership or corporation shall use in literature, advertising material or on shipping labels or otherwise the words "tested," "approved," "accredited" or "certified" in conjunction with either the word "state" or the word "Minnesota" or both of them as related to a poultry hatchery or a poultry breeding flock except under the authority of this act. (Act Apr. 25, 1931, c. 408, §8.)

Advertisements concerning testing of chicks giving false impression of inspection and supervision by State of Minnesota violated this section. Op. Atty. Gen., Mar. 12, 1934.

Word "state" cannot be used in conjunction with words "blood tested" where no agreement has been entered into with livestock sanitary board. Op. Atty. Gen. (641b), Mar. 19, 1935.

**5460-15. May cancel certificates.**—In his discretion, the secretary and executive officer of the Minnesota Poultry Improvement Board may cancel any certi-

cate of accreditation or certification issued under the authority of his board, and likewise the secretary and executive officer of the State Livestock Sanitary Board may cancel any certificate of testing, approval or accreditation issued under the authority of his board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor. (Act Apr. 25, 1931, c. 408, §9.)

Sec. 10 of the act makes an appropriation for fiscal year ending June 30, 1932.

**5460-16. Effective September 1, 1931.**—This act shall take effect and be in force from and after the first day of September, 1931. (Act Apr. 25, 1931, c. 408, §11.)

**5460-17. The Livestock Sanitary Board may maintain quarantine.**—The State Livestock Sanitary Board is hereby authorized and empowered to establish and maintain, at the owner's expense, a quarantine of any or all domestic animals and/or poultry imported into the state whenever in its judgment such quarantine is necessary to protect the health of the domestic animals or poultry of the state. Such quarantine shall be established by the adoption of a resolution declaring such quarantine and specifying the terms, conditions, scope and application thereof, and the publication of such resolution as provided for the publication of rules and regulations promulgated by such Board. (Act Feb. 21, 1933, c. 33, §1.)

**5460-18. May not break quarantine.**—Upon the establishment of such quarantine, it shall be unlawful for the owner or the person having the custody or control of the animals or poultry subject to such quarantine to remove them or any of them from the premises where they first come to rest within the state after the interstate shipment or transportation is completed, until released by authority of the State Livestock Sanitary Board. (Act Feb. 21, 1933, c. 33, §2.)

**5460-19. Violation a misdemeanor.**—Any person removing any animal or any poultry while subject to quarantine as herein provided in violation of the provisions hereof, shall be guilty of a misdemeanor. (Act Feb. 21, 1933, c. 33, §3.)

**5460-20. Definition.**—The word "person" as used herein shall mean any person, firm or corporation. (Act Feb. 21, 1933, c. 33, §4.)

## CHAPTER 30A

### Inspection of Apiaries

#### 5461. State inspector.—Deputies.

Determination by the appointing power on question of fact as to whether appointee has had such practical experience as to render him eligible as a practical apiarist, will be binding on the courts in the absence of a clear abuse of judicial discretion. Op. Atty. Gen., June 10, 1931.

#### 5471. Compensation of inspector and deputies.

Deputy inspectors are entitled to be reimbursed for expenses incurred in the performance of their duties. Op. Atty. Gen., June 10, 1931.

## CHAPTER 31

### Inspection of Steam Vessels and Boilers

#### 5474. District boiler inspector.—Appointment, etc.

District boiler inspector from 1905 to 1919 was a state employee. Op. Atty. Gen., Oct. 16, 1933.

State boiler inspector has authority to inspect air pressure vessels on trolley cars in connection with their brakes. Op. Atty. Gen. (34g-12), July 13, 1934.

#### 5475. Who eligible.

A janitor of a school may also be employed as a state boiler inspector. Op. Atty. Gen., Aug. 18, 1931.

#### 5476. Deputy inspectors.

Op. Atty. Gen., Aug. 18, 1931; note under §5475.

#### 5480. Examinations of master and pilots, etc.

Operator of gasoline launch on inland water must obtain permit from State boiler inspector and conservation commission in certain cases. Op. Atty. Gen., Mar. 21, 1934.

A village has no authority to regulate the operation of boating, bathing, etc., in a public lake. Op. Atty. Gen. (273d-1), Aug. 25, 1934.

#### 5481. Inspection.

Minnesota general hospital should not discriminate against indigent patients. Op. Atty. Gen. (1001c), June 23, 1937.

**5486. License to be renewed annually and grade authorized.**

Op. Atty. Gen., Jan. 14, 1935: note under §5487(1). Operator of steam boiler in state testing mill must have license. Op. Atty. Gen. (34f), Nov. 18, 1936.

**5487. Examinations for classifications and qualifications.**

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

(1). It is not necessary in a boiler plant of more than 300 horsepower which requires a chief engineer in charge, in case of changing shifts, that all engineers on various shifts should have a license as chief engineer, it being the intent of the statute that one person be in charge and responsible at all times and that his work might be done for him by a first class engineer in his absence between shifts. Op. Atty. Gen. (34h), Jan. 14, 1935.

**5490. District boiler inspector to deliver certificates—fees for inspection.**

—After examination and tests, if the district boiler inspector shall find any steam boiler or pressure vessel safe and suitable for use, he shall deliver to the chief boiler inspector a verified certificate in such form as the chief boiler inspector shall prescribe, containing a specification of the tests applied and the working pressure allowed, a copy of which the district boiler inspector shall furnish to the owner of the boiler or pressure vessel, who shall post and keep the same in a conspicuous place on or near such boiler or pressure vessel. The district boiler inspector shall be entitled to a fee of \$3.00 for the inspection of each boiler or pressure vessel and its connections, payable on delivery of the certificate; provided that the fee for inspection of tanks or receptacles containing air under pressure used to inflate rubber tires used on vehicles shall be \$1.00. The fee for the examination for an engineer's license shall be: Chief engineer, \$7.00; first-class, \$5.00; second-class, \$3.00, and special, \$2.00; and for each yearly renewal, \$1.00. 50 per cent of all license fees shall go to create a fund to be known as the boiler inspectors' fund and 50 per cent to the inspector of the district where the examination is held or renewal made. Which fee shall accompany the application. (R. L. '05, §2184; G. S. '13, §4753; '19, c. 240, §5; Apr. 15, 1933, c. 257.)

Op. Atty. Gen. (34g-12), July 13, 1934; note under §5474.

Laws 1933, c. 257, amending this section, applies to

inspection of air pressure vessels. Op. Atty. Gen., May 2, 1933.

If air tanks are used to inflate tires and also used for other purposes by other connections, boiler inspector is entitled to three-dollar fee. Op. Atty. Gen., Aug. 1, 1933.

Inspection fee is \$3 and not \$1 for inspection of receptacle containing air used to inflate rubber tires on vehicles "and also used for other purposes." Op. Atty. Gen., Jan. 17, 1934.

**5492. Residence boilers and railroad locomotives excepted.**

Operator of steam boiler in state testing mill must have license. Op. Atty. Gen. (34f), Nov. 18, 1936.

**DECISIONS RELATING TO VESSELS IN GENERAL**

The court's charge that the defendant was not responsible for the arrival of the corn at Buffalo in a damaged condition, unless its negligence caused the damage, was sufficient to relieve defendant of responsibility for damage due to the propensity of the corn to sweat and heat, if the sweating and heating occurred without negligence on its part. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(14), 9002.

Unseaworthiness is not confined to faults, or omissions in the construction of the vessel, but may arise out of a fault in the conduct of defendant in relation to the vessel and its equipment, including proper manipulation of hatches to afford ventilation. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 9002.

The damage to plaintiff's property occurred prior to the commencement of the voyage, and the Harter Act (Mason's USCA, Tit. 46, §§190-195), did not apply or relieve defendant of liability. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 9002.

It was defendant's duty as bailee to exercise reasonable care to ascertain the characteristics of the cargo it proposed to store and transport. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(10).

In every contract of affreightment by water, unless otherwise expressed, there is an implied warranty of the seaworthiness of the ship, not only of reasonable fitness to meet the ordinary perils of the sea, but seaworthiness as respects the particular cargo to be transported, including stowage as respects seaworthiness in regard to the cargo. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 9002.

The burden of proof was upon the bailee to show itself free from negligence causing damage to a cargo of corn which it stored for the winter in its ship at Milwaukee and transported to Buffalo upon the opening of navigation. *Rustad v. Great Northern Ry. Co.*, 122M453-456, 142 NW727, followed and applied. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(14), 9002.

Evidence held to sustain finding that negligence of steamship company in ventilation and stowage of corn and its failure to remove snow from deck caused damage to cargo. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(14), 9002.

## CHAPTER 31A

## Inspection and Regulation of Aircraft

## UNIFORM STATE LAW FOR AERONAUTICS

**5494-7. Definitions.**—In this act "Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed by the rules regarding water navigation; while being operated through the air otherwise than immediately above water, it shall be treated as an aircraft.

"Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Passenger" includes any person riding in an aircraft but having no part in its operation. (Act Apr. 17, 1929, c. 219, §1.)

**5494-8. Sovereignty of air in state.**—Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state. (Act Apr. 17, 1929, c. 219, §2.)

Flight by aircraft as constituting trespass or nuisance. 15MinnLawRev318.

Flight by aircraft as constituting trespass or nuisance, and property rights in air column. 21MinnLawRev572.

Trespassers in the sky. 21MinnLawRev773.

**5494-9. Air rights of surface owner.**—The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in Section 4 [§5494-10]. (Act Apr. 17, 1929, c. 219, §3.)

**5494-10. Regulation of flight of aircraft.**—Flight in aircraft over the lands and waters of this state is lawful, unless at such low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the aeronaut shall be liable as provided in Section 5 [§5494-11]. (Act Apr. 17, 1929, c. 219, §4.)

**5494-11. Owners of aircraft liable for injuries.**—The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of