

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 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
1940

5394-2. Violation a misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Mar. 19, 1931, c. 77, §2.)

5394-3. Definitions.—The word "person" as used herein shall include individuals, copartnerships, or corporations, and shall include persons hauling under contract or agreement with any municipal corporation

or board or commission thereof, and any employe of such contractor, or of such municipality, board or commission. (Act Mar. 19, 1931, c. 77, §3.)

5394-4. Application.—This act applies only in all counties of this state having a population of over 500,000 inhabitants. (Act Mar. 19, 1931, c. 77, §4.)

CHAPTER 30

Live Stock Sanitation

5402. Diseased horses and cattle to be killed—Rate of compensation to owner.—Whenever the State Live Stock Sanitary Board (hereinafter called the board) shall decide upon the killing of an animal affected with the disease of tuberculosis, paratuberculosis, or glanders, or Bang's disease, it shall notify the owner or keeper thereof of such decision and when in the judgment of the board, such animal may be ordered transported for immediate slaughter by said board, through its executive officer to any abattoir where the United States Bureau of Animal Industry maintains inspection, or where the United States Bureau of Animal Industry or the board may establish field post mortem inspection, and the owner shall receive the value of the net salvage of the carcass.

Before the animal is removed from the premises of the owner, the representative or authorized agent of the board shall agree in writing with the owner as to the value of such animal; in the absence of such agreement, there shall be appointed three (3) competent disinterested men, one appointed by the board, one by the owner, and a third by the first two, to appraise such animal at its cash value, taking into consideration the condition of the animal as to the disease and its present and probable effect on the animal.

Such appraisal shall in no case exceed \$100 for a cow and \$125 for a horse, except in the case of pure bred cattle and horses where the pedigree shall be proved by certificates of registration from the herd books where registered, and in which case the maximum appraisal shall not exceed \$200.00.

The appraisements made under this act shall be in writing and signed by the appraisers and certified by the board, to the auditor of the state, who shall draw a warrant on the state treasurer for the amount due the owner. ('03, c. 352, §13; '05, c. 115; '09, c. 401; G. S. '13, §4696; '13, c. 148, §1; '15, c. 114, §1; '21, c. 485, §1; '25, c. 230, §1; Feb. 20, 1929, c. 35, §1; Feb. 28, 1935, c. 32; Apr. 8, 1939, c. 171, §1.)

Money appropriated by legislature in 1935 for expense of Bang's disease may be used to pay indemnity for cattle condemned because affected with such disease. Op. Atty. Gen. (293B-1), April 13, 1939.

5403. Same—Inspection before killing—Appraisal of and payments to owners for animals killed—Eradication of foot and mouth diseases.—(a) Notwithstanding any provision of this chapter to the contrary, neither cattle affected with tuberculosis, paratuberculosis, Bang's disease, nor glandered horses shall be killed as such until they have been inspected by a veterinarian appointed by the board, and are pronounced by him to be so diseased.

For each animal slaughtered because of tuberculosis, paratuberculosis, glanders, or Bang's disease, the value of the net salvage of the carcass shall be deducted from the appraised value of the living animal; provided that in no case shall any payment be more than \$15.00 for grade females or more than \$30.00 for any purebred animal, nor, in case of joint payments on the part of the Federal government or any other agency, shall compensation from all sources aggregate more than \$15.00 for grade females or more than \$30.00 for any purebred animal, and that no payment shall be made unless the owner has complied

with all lawful rules and regulations of the board; and provided further that two-thirds of the appraised value of any horse slaughtered as provided herein shall be paid to the owner thereof by the state after disposal of the carcass of said horse as directed by the board.

(b) The owner of any animal, as provided in this act, shall be entitled to indemnity therefor as herein provided, except in the following cases:

1. Indemnity shall not be paid for steers or grade bulls.

2. Animals which have not been kept for one year, or since their birth in good faith, in the state.

3. Animals brought into the state, or from one county into another within the state, contrary to any provision of law or rules and regulation of the board.

4. Animals diseased at time of arrival in this state.

5. Animals belonging to the United States.

6. Animals belonging to institutions maintained by state, county or municipality.

7. Animals which the owner or claimant knew to be diseased or had notice thereof at the time they came into his possession, or when the owner shall have been guilty of negligence by wilfully exposing his animal or animals to Bang's disease, or if the animals have been injected with live Bang's disease organisms in the form of so-called Bang's disease vaccines.

8. When the owner has received indemnity as a result of a former inspection or tests and has hereafter introduced into his herd any animals which theretofore had not passed the tuberculin or Bang's disease test.

9. Where the owner, agent, or person in possession of said animal has not complied with the rules and regulations of the board with respect to animals condemned.

10. When the condemned animals are not destroyed within 15 days after date of appraisal, except that in extraordinary circumstances and in meritorious cases and at the discretion of the secretary and executive officer of the board, said time limit of 15 days may be extended an additional 15 days, provided, however, that the owner receives permission to do so from the said secretary and executive officer within 15 days of date of appraisal.

11. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, glanders, or Bang's disease, unless the entire herd of which such affected livestock is a part, or from which such affected livestock has originated, shall be examined and tested under the supervision of the board, in order to determine if they are free from such disease.

12. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, glanders, or Bang's disease, unless the owner has carried out the instructions and regulations of the board relating to the cleaning, disinfection and rendering the stables and premises in a sanitary condition, within 15 days from the time of removal of such animals from the premises, except when because of inclement weather or other extenuating circumstances, the time may be extended by the executive officer of the board.

13. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, or Bang's disease, if the owner has fed milk or milk products derived from creameries and which have not been pasteurized as required by state laws and regulations.

14. If, at any time, the annual appropriation for payment of indemnities becomes exhausted as a result of condemnation and slaughter of animals, the state livestock sanitary board shall discontinue making further official tests or to authorize such tests, with the exception that if an owner signs a waiver, on blanks to be furnished by said board, for payment of indemnity for any animals that may be condemned as the result of a test and inspection, and releasing the state from any obligation to pay indemnity from any future appropriation.

15. When the owner is a non-resident and neither he nor his duly authorized agent or agents are engaged in breeding livestock in this state.

(c). Whenever it is determined by the board that it is necessary to eradicate the dangerous, infectious, communicable foot and mouth disease among domestic animals in the state in co-operation with the United States Bureau of Animal Industry and to appraise and destroy animals affected with or which have been exposed to this disease, or to destroy property in order to remove the infection and complete the cleaning and disinfection of the premises or to do any act or incur any other expense reasonably necessary in suppressing this disease, the board may accept, on behalf of the state, the rules and regulations adopted by the United States Bureau of Animal Industry under authority of an act of Congress, or such portion thereof deemed necessary, suitable or applicable, and co-operate with the United States Bureau of Animal Industry in the enforcement of such rules and regulations so accepted; or it may follow such procedure only as to quarantine or inspection or condemnation or appraisal or destruction or burial of animals, disinfection and other acts deemed by it reasonably necessary in the suppression of this disease as may be agreed upon and adopted by the board and representatives or authorized agents of the United States Bureau of Animal Industry, the total expense to be shared equally between the state and federal government.

The appraisals of animals affected with or exposed to foot and mouth disease, or contact animals shall be made by an appraisal board consisting of a representative of the board, a representative of the United States Bureau of Animal Industry and the owner of the animals or his representative, such appraisals, in writing, and signed by the appraisers, to be made at the true market value of all animals.

Upon destruction and burial of such animals and the completion of the cleaning and disinfection of the premises, the state livestock sanitary board shall certify the appraisal to the auditor of the state, who shall draw a warrant on the state treasurer for one-half the amount thereof payable to the owner, and the remaining one-half of such appraisal to be paid by the federal government under such co-operative arrangement. (As amended Feb. 20, 1929, c. 35, §2; Apr. 8, 1939, c. 171, §2.)

Laws 1929, c. 35, §2, amends subd. (a) of this section. Section 3 of the same act repeals subdivision 1 of paragraph (b).

5408-4. Unlawful acts—Penalties.—In shall be unlawful for any veterinarian, who is an agent or representative of the state livestock sanitary board, or any other public official to suggest, recommend, or in any manner endeavor to influence or seek to persuade the owner of any animal affected with any disease set forth in Mason's Minnesota Statutes of 1927, Section 5402, as amended by Laws 1929, Chapter 35, and by Laws 1935, Chapter 32, either directly or indirectly to sell, barter, exchange, ship or otherwise dispose of such animal to any particular person, firm, association, corporation or any combination thereof; and any

person violating any of the provisions of this act shall be guilty of a gross misdemeanor. (Act Apr. 8, 1939, c. 171, §3.)

5408. Live stock detectives.—Any person duly commissioned by a governor, or the Livestock Commission, or any other proper authority of another state to act as a live stock detective may exercise his powers as such in this state, consistently with the laws thereof, upon paying a fee of five dollars and filing with the secretary of state:

1. His commission, or a certified copy thereof.
2. A bond to the state in the penal sum of two thousand dollars, approved by the secretary, and conditioned for the payment of all damages resulting to any person from any wrongful seizure of property within the state, or other unlawful act done therein by him or by any of his deputies.
3. A stipulation that service upon such secretary of any summons, order, notice, or process in a civil action upon such bond shall be a sufficient service upon him or his deputies.

Thereupon the secretary of state shall issue certificates to him, and to not exceeding three deputies by him, and for whose acts he shall be responsible, authorizing the holder to perform the duties herein referred to while such commission is in force. And each may seize and hold any animal which he may know or have reason to believe has strayed or been stolen from the state whence said commission issued. (R. L. '05, §2167; G. S. '13, §4702; Apr. 17, 1933, c. 303.)

5409. Transportation of animals or fowls into State forbidden—exceptions.—That it shall be unlawful for any transportation company, owners or drivers of trucks for hire, or private trucks, person or persons to bring into the state of Minnesota or to drive or lead over the highways into this state, any animals or poultry, for work, feeding, breeding or dairy purposes, except in compliance with the rules and regulations now or hereafter adopted by the live stock sanitary board. ('07, c. 355, §1; G. S. '13, §4703; Feb. 28, 1935, c. 31, §1.)

5410. Transportation companies to hold livestock and poultry.—That in any case where the rules and regulations of the livestock sanitary board have not been complied with, transportation companies shall notify the Live Stock sanitary board and shall hold such animals and/or poultry at the first station within Minnesota where are suitable facilities for holding animals and/or poultry for inspection by the live stock sanitary board, such inspection to be made at the expense of the owner. ('07, 355, §2; G. S. '13, §4704; Feb. 28, 1935, c. 31, §2.)

5411. Violation a gross misdemeanor.—Any transportation company, corporation or agent thereof, or owners or drivers of trucks for hire, private trucks, person or persons violating any of the provisions of this Act, shall be guilty of a gross misdemeanor, and upon conviction thereof shall be fined for each offense not less than \$500.00, nor more than \$1000.00, or be imprisoned for not more than one year. Such transportation company, corporation or agent or owners or drivers of trucks for hire, private trucks, person or persons shall be liable in a civil action to any person injured for the full amount of damages that may result from the violation of this act. Action may be brought in any county in the state in which said cattle are sold, offered for sale or delivered to purchaser, or anywhere they may be detained in transit. ('07, c. 355, §3; G. S. '13, §4705; Feb. 28, 1935, c. 31, §3.)

5412. [Repealed.]

Repealed. Laws 1935, c. 31, §4.

5416. County board may appropriate money for cattle testing.—The boards of county commissioners of the several counties of this state may, in their discretion, and upon petition signed by cattle owners residing therein equal in number to a majority of the

cattle owners within the county, as shown by the last preceding assessment roll, shall, immediately or at the next meeting of the board of county commissioners, enter into an agreement with the State Live Stock Sanitary Board for the testing of all cattle in the county on the "county area" plan, and shall also appropriate out of the funds of the county not otherwise appropriated, a sum of money not exceeding twenty-five cents per head of cattle for each tuberculin test that may be administered, until the percentage of tuberculous cattle within the county is reduced to meet the requirements of a "modified accredited area" as defined and approved by the United States Department of Agriculture and the State Live Stock Sanitary Board of Minnesota, for the purpose of aiding in the testing of cattle in the county for tuberculosis and of carrying out sanitary and quarantine regulations. When there are no funds available for such an appropriation, a tax shall be levied in a sufficient amount for the purpose, and after the levy thereof orders may be issued against such tax and in anticipation of its collection. All such money shall be expended under the direction and supervision of the State Live Stock Sanitary Board and shall be disbursed on vouchers verified by the executive officers of said board, and in cases where the United States Department of Agriculture, Bureau of Animal Industry, is a party to a cooperative agreement with the county for the control of tuberculosis in cattle, by the federal inspector in charge, as hereinafter provided; provided that, in counties where petitions for the tuberculin test of cattle have been heretofore filed with the boards of county commissioners as herein provided, and in which the boards of county commissioners have not entered into an agreement with the State Live Stock Sanitary Board for the testing of all the cattle in the county, the boards of county commissioners of such counties shall, upon petition of one hundred or more resident cattle owners, forthwith enter into such contract and otherwise in all things comply with the provisions of this act. ('23, c. 269, §1; Apr. 25, 1931, c. 360, §1.)

Law does not delegate legislative power in commanding its enforcement by county board only upon certain conditions. *State v. Board of Com'rs*, 186M524, 243NW851. See Dun. Dig. 1599.

Title held germane to subject matter. *State v. Board of Com'rs*, 186M524, 243NW851. See Dun. Dig. 8920.

Act is constitutional. *State v. Board of Com'rs*, 243NW 851.

Vouchers issued by the Live Stock Sanitary Board and the federal inspector are insufficient to authorize the county auditor to issue warrants without approval of the county board, but no warrants may be issued in excess of levy of tax for the purpose, but the county board may be compelled to include a sufficient levy to pay the bills in the next years levy. *Op. Atty. Gen.*, Dec. 10, 1929.

Levy under this section is not subject to the seven mill limit prescribed by §2060-1. *Op. Atty. Gen.*, May 31, 1930.

Persons who own cattle but whose names do not appear upon the assessment roll as owning cattle may sign the petition and be counted. *Op. Atty. Gen.*, Feb. 20, 1931.

Persons signing petition for a tuberculin test under the county area plan have a right to withdraw their names therefrom, and petitioners who sign a remonstrance thereby withdraw their names. *Op. Atty. Gen.*, July 2, 1931.

The 1931 amendment applied to petitions for a tuberculin test under the county area plan where presented to the board after the amendment, though signed prior thereof. *Op. Atty. Gen.*, July 2, 1931.

The live stock sanitary board cannot legally refuse to slaughter and pay indemnity for cattle that react to the tuberculin test or which are affected with the disease, just because such cattle are located in counties in which the county boards have not executed co-operative agreements with the board. *Op. Atty. Gen.*, Sept. 28, 1931.

A county commissioner who is a veterinarian may not test cattle for tuberculosis on the county area plan, though carried out under livestock sanitary board. *Op. Atty. Gen.*, July 12, 1933.

Levy for tuberculosis tests may be made before July meeting. *Op. Atty. Gen.*, Jan. 30, 1934.

5417. Live stock sanitary board to make test.—The State Live Stock Sanitary Board shall enter then into an agreement with the county commissioners of said county to cause the testing of all cattle in the county for tuberculosis, provided funds are available for the

payment of indemnities as required by law, and provided also that an adequate force of veterinarians qualified to test cattle as required are available. Such agreement shall specify such quarantine rules and regulations as the State Live Stock Sanitary Board may deem advisable relative to the control of tuberculosis among cattle in such county. ('23, c. 269, §2; Apr. 25, 1931, c. 360, §2.)

Op. Atty. Gen., Sept. 28, 1931; note under §5416. Persons employed by State Livestock Sanitary Board under this act are state "employees" within the Workmen's Compensation Law. 179M425, 229NW560.

County is liable for applying tuberculin test to cattle owned by non-residents, pastured in the county. *Op. Atty. Gen.*, Aug. 4, 1930.

5418. Subsequent test to be made without expense.—After a county has been certified as a "modified accredited area," subsequent tests of cattle in the county and retests of infected herds and any and all retests necessary to keep and maintain said area free from bovine tuberculosis as herein required for a "modified accredited area" shall be made in the discretion of the State Live Stock Sanitary Board, and such tests and retests shall be without expense to the county. ('23, c. 269, §3; Apr. 25, 1931, c. 360, §3.)

5429. Veterinary division to establish stations in each county in the state.

Vaccination of hogs was negligently performed in that there was either an insufficient amount of serum used or that serum lost its potency because of failure to keep at proper temperature. *Ziegler v. D.*, 204M156, 233NW 134. See Dun. Dig. 7487.

5432. Duties of live stock sanitary board.
This act saved from repeal by Laws 1937, c. 119, §15, post, §5851-15.

5434. Must have permit.
Each distributing agency of a commercial biological house shall have a permit, and such a concern may not place its products in retail stores even though they be acting as agents for it unless each has a permit. *Op. Atty. Gen.* (293B), June 5, 1939.

5441. Fee to accompany applications.
Each distributing agency of a commercial biological house shall have a permit, and such a concern may not place its products in retail stores even though they be acting as agents for it unless each has a permit. *Op. Atty. Gen.* (293B), June 5, 1939.

5446. Must have permits to administer virus.—No person shall use or administer virulent blood or hog cholera virus within this state unless he shall have been granted a permit by the board authorizing him to use or administer the same. Such permits shall be in writing and shall be issued only to such persons as in the opinion of the board are qualified to administer the same and shall only be used or administered in infected territory. The area within a radius of six miles from premises whereon hog cholera exists, or has existed within the preceding twelve months, shall constitute infected territory. Qualified licensed veterinarians may administer virulent blood or hog cholera virus in non-infected territory upon receipt of a special permit to administer the same to hogs on an individual farm. All permits shall require the holders thereof to comply with all quarantine regulations of the board and may be cancelled by the board upon it appearing that the holder thereof is no longer a proper person to administer such virulent blood or hog cholera virus. ('23, c. 112, §15; Feb. 23, 1929, c. 36.)

5459. [Repealed.]
Repealed. Laws 1935, c. 27.

5460. [Repealed.]
The repeal of §5459, on which this section depends, probably works an implied repeal of this section.

5460-1 to 5460-3. [Repealed.]
Repealed Feb. 20, 1929, c. 33, §5.
Act Feb. 27, 1935, c. 26, repeals Laws 1929, c. 33, which repealed these sections. In view of §10930 the repealed sections are not revived.

5460-3½ to 5460-3¾ c. [Repealed.]
Consisted of Act Feb. 20, 1929, c. 33.
Repealed. Laws 1935, c. 26.

POULTRY

5460-7. Poultry breeding board created.—For the purpose of fostering the development of the poultry industry of the state of Minnesota, particularly through the improvement of breed type and productiveness of poultry flocks and through the control and eradication of infectious and communicable diseases and for the further purpose of affording protection to buyers of poultry breeding stock by providing and indicating dependable sources from which poultry may be purchased, there is hereby created a body to be known as the Minnesota Poultry Improvement Board which shall be constituted as follows: The Commissioner of Agriculture, Dairy and Food of the State of Minnesota, the Chief of the Poultry Division of the College of Agriculture, University of Minnesota, the secretary and executive officer of the State Livestock Sanitary Board and two other members who shall be competent and experienced poultrymen and who shall also be owners and operators of commercial poultry hatcheries to be appointed by the governor of the state of Minnesota each for terms of three years and until their successors qualify; provided, however, that, of the first two appointments of hatchery owners after the passage of this act, one shall be appointed for a two year term only. (Act Apr. 25, 1931, c. 408, §1.)

5460-8. Board to serve without compensation.—The members of the Minnesota Poultry Improvement Board shall serve without compensation as such, but the expenses of each, necessarily incurred in the discharge of his duties, shall be paid by the state. Within 30 days after this act goes into effect the board shall meet and elect a president and a vice president and do such other things as are needful to initiate the work provided for in this act. The board shall hold quarterly meetings at the seat of government on the first Tuesday after the first Monday in January, April, July and October. Officers shall be elected at the April meeting. Special meetings may be held upon the call of the president of the board. Three members shall constitute a quorum. (Act Apr. 25, 1931, c. 408, §2.)

5460-9. Powers and duties.—The Minnesota Poultry Improvement Board shall have power to employ a secretary and executive officer, not a member of the board, for a term of one year and until his successor qualifies. The said secretary and executive officer shall be a competent and experienced poultryman. The board may also employ and dismiss at will such other persons as are necessary to carry out the provisions of this act and to fix all salaries and to provide for expenses generally not inconsistent with law. The board is further authorized and directed to formulate and adopt a plan or plans whereby owners of poultry hatcheries may be accredited and certified such flocks culled, inspected and supervised to the end that such flocks may be accredited and certified for standard type and egg production; and likewise poultry hatcheries may be accredited and certified as hatchling and selling stock produced only from accredited and certified flocks. The board is further authorized to make, publish and enforce rules and regulations to these ends not inconsistent with law and to define, prescribe and authorize the use of uniform terminology to apply to varying degrees of accreditation and certification. The board is further authorized to adopt the STANDARD BREEDING PLAN of accreditation and certification sponsored by the United States Department of Agriculture or any other plan sponsored by said department and to cooperate with said department in matters of poultry improvement. The board is further authorized to prescribe and collect fees for inspection and supervision and to prescribe and furnish labels, leg bands and certificates of accreditation and certification and such other supplies as may be necessary and to prescribe and collect fees for the same. The board is further authorized to do such other things as it may deem needful

and expedient to improve poultry breeding and practices and to give effect to this act. (Act Apr. 25, 1931, c. 408; §3.)

Board has authority to spend funds for broadcasting educational radio programs. Op. Atty. Gen. (294), March 9, 1939.

5460-10. Advertising.—Owners of accredited and certified poultry breeding flocks and hatcheries shall have the right to use the terminology prescribed by the board in their literature and advertising and on shipping labels, provided that the board may by regulation require the submission of all or any part of such literature and advertising matter to it for review and approval before publication or issuance. (Act Apr. 25, 1931, c. 408, §4.)

5460-11. Disposition of fees.—All fees collected under this act shall be deposited in the state treasury and shall be placed in a special fund to be known as the "Poultry Improvement Board Fund," available for and from which expense of the board in carrying out this act shall be paid. (Act Apr. 25, 1931, c. 408, §5.)

5460-12. To cooperate with the state livestock sanitary board.—The State Livestock Sanitary Board shall cooperate with the Minnesota Poultry Improvement Board in all ways consistent with law, provided that 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 certificate 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.)

5460-21. Cattle to be tested for Bang's disease.—For the purpose of controlling and eradicating Bang's disease in the cattle herds of Minnesota, the State Livestock Sanitary Board, hereinafter called the board, is hereby authorized to undertake testing of bovine animals for such disease on the area plan, which plan is hereby declared to be one involving the testing and periodic retesting of all bovine animals within a given area, as hereinafter limited and defined, and elimination by condemnation and slaughter of all said animals reacting to said test, in the manner as provided by law. An area shall consist of a county, provided that, when in the opinion of the board it is more practical so to do, any given township may be designated as an area. (Act Apr. 13, 1939, c. 217, §1.)

5460-22. Petition to be filed—Hearing.—Whenever petitions signed by 70 per cent of the cattle owners resident in an area, as determined by the last preceding assessment roll, shall be presented to the board, asking that all cattle within such area or county be tested for Bang's disease, said board is hereby authorized to make such test without expense to the owners of cattle within said county or area. The board shall fix a time when and place where said petitions and any objections thereto may be heard by the board, and notice of said hearing shall be published in at least one newspaper published or circulated in such area, or if in the case of a township there be no newspaper published therein, then notice

shall be published in a newspaper circulating within the county in which said township is located, not less than ten days preceding the time set for such hearing. At the time and place fixed for such hearing the board shall examine and consider such petitions and the evidence, facts and things offered in support of and against the same, and shall render its decision thereon. In case the board determines that the petitions are sufficient to satisfy the statute, such determination shall be final unless reviewed in the manner herein provided. In case the board grants the petition and determines to undertake the work of testing, notice of such determination and the time and place when testing shall begin shall be given by publishing notice in at least one newspaper, published or circulating in such county. (Act Apr. 13, 1939, c. 217, §2.)

Petition may include cattle owners in area who have become residents since last preceding assessment. Op. Atty. Gen. (293B-1), Sept. 14, 1939.

5460-23. Rehearing.—A rehearing shall be granted upon the written application therefor, signed by not less than 20 per cent of the resident cattle owners within said area, as shown by the last preceding assessment rolls, and filed with the board within thirty days after the publication of notice of the board's determination, as provided in section 2 hereof. The board shall, upon receipt of a valid application for rehearing, order one or more agents or employees of said board to make an investigation in said area and hold at least one public hearing therein, notice of which hearing shall be published as in the manner provided for the original hearing. The representative or representatives of the board who may conduct such investigation and rehearing shall make and file with the board a written report thereof. The report shall be examined and acted upon by the board, and if it shall find that the original petitions were sufficient, its decision shall be final. (Act Apr. 13, 1939, c. 217, §3.)

5460-24. Board to fix time for testing.—Notwithstanding full compliance with the procedure on the part of cattle owners, as herein provided, the board shall retain complete discretion as to the time of the commencement of such testing in any area; and the board shall not be required to make such tests in the order in which the petitions are received. In any case the board may proceed with such testing only when, in its opinion, sufficient approved veterinarians and sufficient funds for administration and indemnity payments are available. (Act Apr. 13, 1939, c. 217, §4.)

5460-25. Re-tests.—After the first test in any area shall have been completed, the board shall periodically make such re-tests as in its opinion are necessary until the percentage of cattle infected with Bang's disease in the area is reduced to meet the requirements of a "Modified Accredited Area" as defined and approved by rules and regulations of the Minnesota State Livestock Sanitary Board. And after an area has been certified as a "Modified Accredited Area" subsequent tests of cattle in the county and retests of infected herds and any and all retests necessary to keep and maintain said area free from Bang's disease as herein required for a "Modified Accredited Area" shall be made in the discretion of the board, and such tests and retests shall be without expense to the county or area. (Act Apr. 13, 1939, c. 217, §5.)

5460-26. Cattle owners to assist in making test.—Whenever in accordance with this act the board by its order has fixed the time for commencement of testing in any area, all cattle owners and persons in possession of cattle in the area shall upon demand submit the same for Bang's disease testing and physical examination by the board or its authorized agent or agents, and all such persons shall assist the board and its agents in applying said tests and in making such physical examinations whenever the board or its agents enter upon the premises where such cattle are

located and makes demand therefor, or in making any retest of cattle within such area, as provided in this act. Such owner or person in possession shall account for all animals tagged in making such tests and retests, and shall submit all such cattle to the board or its agents at any time when the board or its agents visit said premises to make further tests or examinations. Such owner or person in possession shall also immediately remove reacting cattle from the premises when officially condemned and cause the same to be slaughtered as required by said board, and shall not use milk or milk products, or sell or dispose of the same, from reacting cattle after the same have been officially condemned. (Act Apr. 13, 1939, c. 217, §6.)

5460-27. Board to make and enforce rules.—The board shall have power to make and enforce such rules and regulations and quarantines as it may deem expedient to carry out the provisions of this act. (Act Apr. 13, 1939, c. 217, §7.)

5460-28. County board to provide funds.—Boards of county commissioners in the state of Minnesota are hereby authorized in their discretion to appropriate

or provide funds for the use of the Minnesota Live-stock Sanitary Board to aid in the eradication and control of Bang's disease in their counties, as provided in this act. When and if such funds are made available by counties, the same shall be expended under the direction and supervision of the Minnesota Live-stock Sanitary Board and shall be distributed on vouchers verified by the executive officer of said board. (Act Apr. 13, 1939, c. 217, §8.)

5460-29. Provisions severable.—The various provisions of this act shall be severable, and if any part of provision shall be held to be invalid, it shall not be held to invalidate any other part or provision thereof. (Act Apr. 13, 1939, c. 217, §9.)

5460-30. Inconsistent acts repealed.—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 13, 1939, c. 217, §10.)

5460-31. Effective July 1, 1939.—This act shall take effect and be in force from and after the first day of July, 1939. (Act Apr. 13, 1939, c. 217, §11.)

CHAPTER 30A

Inspection of Apiaries

5461 to 5473. [Repealed Apr. 22, 1939, c. 404, §19, post §5473-19.]

ANNOTATIONS UNDER REPEALED SECTIONS

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.

5473-1. Definitions.—The following terms shall be construed respectively to mean:

(a) "Apiary"—any place where one or more colonies of bees are kept.

(b) "Appliances"—any apparatus, tools, machines, or other devices, used in the handling and manipulating of bees, honey, wax, and hives. It shall also include any containers of honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies.

(c) "Bees"—any stage of the common honey bee, *Apis mellifera* L.

(d) "Bee diseases"—American or European foulbrood, sacbrood, bee paralysis, or any other disease or abnormal condition of egg, larval, pupal or adult stages of bees.

(e) "Bee equipment"—hives, supers, frames, veils, gloves, or any other appliances or equipment.

(f) "Colony"—the hive and its appliances, including bees, comb, honey and equipment.

(g) "Hive"—frame hive, box hive, box, barrel, log gum, skep or any other receptacle or container, natural or artificial, or any part thereof, which may be used or employed as a domicile for bees.

(h) "Persons"—individuals, associations, partnerships and corporations.

(i) "Queen apiary"—any apiary or premises in which queen bees are reared or kept for sale or gift.

Words used in this Act shall be construed to import either the plural or singular, as the case demands. (As amended Apr. 22, 1939, c. 404, §1.)

5473-2. Apiary inspections.—The State Entomologist of the State Department of Agriculture, Dairy and Food is hereby authorized to establish apiary inspection and to have charge of the inspection of apiaries as hereinafter provided. Said State Entomologist

shall investigate or cause to be investigated outbreaks of bee diseases, and cause suitable measures to be taken for their eradication or control. (As amended Apr. 22, 1939, c. 404, §2.)

5473-3. State entomologists to enforce act.—For the enforcement of this act, the State Entomologist or his deputies shall have authority to enter upon any private or public premises, and shall have access, ingress and egress to and from all apiaries or places where bees, combs, or apiary appliances are kept, for the purpose of ascertaining the existence of the diseases known as American foulbrood or European foulbrood or any other disease which is infectious or contagious in its nature, and injurious as to honey bees in their eggs, larval, pupal or adult stages, and of this, the State Entomologist shall be the sole judge, and should any of the said diseases exist in such apiaries it shall be the duty of the State Entomologist or deputy to treat or cause to be treated or to destroy or cause to be destroyed by fire the colony, including hives, frames, honey, wax, and brood. No damages shall be awarded to the owner for the loss of any infected apiary, bees, bee equipment, appliances, bee products destroyed under the provision of this act or of any order or regulation made in pursuance thereof. The State Entomologist or deputy may destroy or cause to be disinfected immediately, all used beekeeping equipment situated in diseased areas. And after each individual apiary has been inspected and found apparently free from American foulbrood or other dangerous contagious or infectious bee diseases, and provided all other sections of this Act have been complied with, a certificate of inspection shall be issued. Such certificate of inspection or health shall be valid for the current year or the remainder thereof. However a certificate of inspection may be revoked at any time whenever the State Entomologist in his judgment determines adequate cause for revocation. (As amended Apr. 22, 1939, c. 404, §3.)

5473-4. Licenses.—Every person owning or possessing bees shall on or before the first day of July of each year, file with the State Entomologist of the State Department of Agriculture, an application for registration, which application shall set forth the exact location of his apiary or apiaries, the number of colonies of bees in each apiary owned by him or in his possession or under his control, together with