

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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for violation of this act or of the rules or regulations made and published thereunder. The Commissioner and his duly authorized agents and inspectors appointed for the purpose of enforcing the provisions of this act shall have the power of police officers in the enforcement of this act. (Act Apr. 25, 1931, c. 394, §17; Apr. 15, 1935, c. 186, §3.)

Duty imposed on the commissioner of agriculture, generally to enforce law against wholesale dealers in produce as in case of one unlawfully doing business without a license, involves exercise of judgment and discretion and so is not in class of ministerial official duties, non-performance of which may result in liability to one proximately damaged by nonfeasance. *Cook v. T.*, 274 NW165. See *Dun. Dig.* 8001.

Wholesale dealers shipping potatoes in violation of labeling act should be prosecuted in county where potatoes are loaded and billed. *Op. Atty. Gen.*, Mar. 21, 1933.

Commissioner must delegate his duties to subordinates, and may divide duties of his employees in produce inspection division, and by removing enforcement duties from branch office to main office relieve branch office of duty of enforcing law, but he cannot divorce such duties from division as such and permit use of moneys collected by some other division. *Op. Atty. Gen.* (832n), Sept. 24, 1937.

6240-18 1/2 q. Law repealed.—Chapter 427, General Laws 1927 [§§6240-1 to 6240-18], and all other acts and parts of acts inconsistent with this Act are hereby repealed. (Act Apr. 25, 1931, c. 394, §18.)

INVESTIGATIONS

6241. Commissioner of agriculture authorized to make investigations.

Powers conferred upon the Commissioner under this section are not applicable to any investigation which the Commissioner may institute under §10390. *Op. Atty. Gen.*, Oct. 15, 1931.

FARM BUREAUS

6248. Fees.

Justice court has no jurisdiction where penalty exceeds three months' imprisonment. *Op. Atty. Gen.* (266b-21), July 15, 1937.

DISCRIMINATION IN PURCHASE OF FARM PRODUCTS

6248-1. Terms and phrases.

There is no violation of this law by a local wholesale egg dealer who refuses to buy eggs from merchant at as high a price as he pays to farmers. *Op. Atty. Gen.* (135a-3), Aug. 26, 1935.

6248-2. Definitions.—(a) The term "person" means as individual, firm, copartnership, corporation or association.

(b) The term "farm products" as used in this act shall mean and include butter, milk, cream, butterfat, cheese and other dairy products, honey, eggs, poultry and all livestock and products of livestock such as wool, mohair, hides and meats.

(c) The term "bona fide competitor" means a duly licensed dealer in farm products maintaining a place of business in the same trade territory. (As amended Apr. 24, 1937, c. 420, §1.)

Co-operative associations come under statute. *Op. Atty. Gen.* (681j), July 26, 1937.

6248-3. Discrimination prohibited.—Any person engaged in the business of buying any such farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, com-

munities, cities or villages, or between persons in the same community, of this state, by purchasing any such farm products at a higher price or rate in one locality or from one person than is paid for such farm products of the same kind, quality and grade by such person in another section, locality, community, city or village, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture or sale, or who shall fail to deduct full transportation costs from the purchase price paid; or who shall fail to deduct the actual costs of hauling when such products are gathered by wagon or truck; or who shall pay or offer to pay in trade or in exchange for goods, wares or merchandise a higher price for such farm products than the cash price paid or offered to be paid for such farm products, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. Providing, however, that wherever the transportation costs actually charged for hauling cream shall be two cents or more per pound for butterfat therein contained, and 15 cents per 100 pounds for transportation of whole milk, such charge shall be deemed a compliance with the terms of this act. It shall not be unfair discrimination for any person to pay, in any section, locality, community, city, or village, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant. (As amended Apr. 24, 1937, c. 420, §2.)

Clause "or who shall fail to deduct the actual costs of hauling when such products are gathered by wagon or truck" is so vague, indefinite and uncertain as to deny due process of law. *State v. Northwest Poultry & Egg Co.*, 203M438, 281NW753. See *Dun. Dig.* 1647.

A creamery operating cream routes for only part of patrons and paying a portion of expense thereof out of general fund, held not guilty of discrimination between patrons. *Op. Atty. Gen.*, Nov. 24, 1933.

A person buying cream in connection with a grocery business can pay farmer two cents more for butter fat if he trades it out in groceries than if he were to pay it out in cash. *Op. Atty. Gen.*, Feb. 14, 1934.

This act has no application to a buyer of cream having his place of business in municipality and purchasing cream only at his place of business, but only as application to discrimination as between different communities. *Op. Atty. Gen.* (135a-3), Aug. 16, 1935.

An Iowa plant hauling eggs from their own stations in Minnesota to the locality of sale in Iowa should deduct all transportation costs from Minnesota stations to Iowa plant. *Op. Atty. Gen.* (681e), May 18, 1937.

Laws 1937, c. 420, amending this section is constitutional. *Id.*

Laws 1937, c. 420, does not permit meeting of competitor's transportation costs. *Op. Atty. Gen.* (135a-3), July 30, 1937.

6248-9. Construction of act.—Nothing in this act shall be construed as repealing any other act or part of any other act, unless inconsistent herewith, but the remedies herein provided shall be cumulative to all other remedies provided by law. If any section, subdivision, sentence or clause in this act shall, for any reason, be held to be unconstitutional or void, such judgment shall not affect the validity of any other portion of this act. (As amended Apr. 24, 1937, c. 420, §3.)

CHAPTER 39

Bounties and Rewards

6254. Bounties on wolves.—(a) Every person who shall kill a wild wolf in this state, not having at the time spared the life of any other such wolf he could have killed, shall upon compliance with the provisions of this act, be rewarded in the sum of fifteen dollars for each adult animal and six dollars for each cub, to be paid by the state out of the revenue fund or such

other funds as may be appropriated therefor by law.

(b) Any county board may add to such reward and appropriate county funds therefor.

(c) For the purposes of this act any wolf killed before September 1st of the year in which it was born shall be deemed to be a cub, and any wolf killed on or after said date, if physically mature, though not

full grown, shall be deemed to be an adult wolf. (R. L. '05, §2397; '07, c. 381, §1; G. S. '13, §5197; '23, c. 103, §1; Apr. 25, 1931, c. 368, §1.)

6255. Claim when and how made.—(a) Within thirty days after the killing, the claimant shall produce the entire carcass of the animal in the presence of two witnesses, to the clerk of the town, wherein the animal was killed, or, if the animal was killed in unorganized territory, to the nearest town clerk in the same county, and shall make and deliver to the town clerk a written statement of his claim under oath, in duplicate, describing the animal as adult or cub, as the case may be, specifying the time and place of the killing thereof by the claimant, and stating that he did not on that occasion spare the life of any wild wolf he could have killed. All animals produced at any one time shall be included in one statement.

(b) The clerk shall examine each carcass produced in the presence of witnesses, and shall make such further investigation as may be necessary to verify the statements of the claimant. For the purposes of such investigation the clerk may examine under oath with respect to any pertinent matter the claimant and any other persons having knowledge of the facts, and may attach a statement of such investigation and examination to the statement of the claim. The toes of both front feet of the animal shall then be removed in the presence of the clerk and the two witnesses.

(c) The claimant may then remove the hide, including the scalp and ears, and shall then bury, destroy, or otherwise properly dispose of the remainder of the carcass. (R. L. '05, §2398; G. S. '13, §5198; Apr. 25, 1931, c. 368, §2.)

6256. Town clerk to issue certificate.—The town clerk, if satisfied that the statements of the claimant are true, that the requirements of the law have been complied with, and that the claimant is entitled to the reward claimed, shall make a certificate in duplicate so stating, and specifying that the requirements of the preceding section have been complied with. Both duplicates of the certificate shall be attested by the two witnesses and one shall be attached to each duplicate of the statement of the claim. All animals produced at any one time shall be included in one certificate. Both duplicates of the certificate and statement shall be delivered to the claimant, who shall pay a fee of thirty-five cents therefor. The clerk shall keep a record of all certificates issued by him, showing the date of issuance of each certificate, name of claimant, number and kind of animals killed, and date and place of the killing thereof. (R. L. '05, §2399; '07, c. 298; G. S. '13, §5199; Apr. 25, 1931, c. 368, §3.)

6257. Duties of county and state auditor.—(a) The claimant shall produce both duplicates of the statement and certificate, together with the hide of each animal described therein, with scalp and ears intact, to the county auditor. The auditor shall examine the same, and, if he finds that the statement and certificate are in proper form, and if he is satisfied that the hides produced are those of the animals described in the statement and certificate, that the requirements of the law have been complied with, and that the claimant is entitled to the reward claimed, he shall punch a three-eighths inch hole in each ear of each hide presented, and shall issue to the claimant a warrant upon county treasurer for the sum due. If any reward is offered by the county, a separate warrant shall be issued therefor. The auditor shall certify by indorsement upon both duplicates of the statement that the foregoing provisions of this section have been complied with, stating also the number, date and amount of each warrant issued in payment of the claim.

(b) The hides produced shall be returned to the claimant. Any transportation charges thereon shall be paid by the claimant.

(c) After issuing the warrant for the state reward the county auditor shall transmit one of the duplicates of the statement and certificate and a copy of the warrant, with a certificate by him stating that the warrant has been issued and requesting reimbursement therefor, to the state auditor, who shall thereupon issue and return his warrant upon the state treasurer in favor of the county for the amount paid.

(d) The county auditor shall keep a record of all claims for such rewards allowed and paid by him, showing the same items as hereinbefore specified for the records of the town clerk, also the numbers, dates, and amounts of all warrants issued in payment of such claims, specifying whether for state or county rewards. (R. L. '05, §2400; G. S. '13, §5200; Apr. 25, 1931, c. 368, §4.)

6258. Penalties.—Every person who shall fraudulently claim or obtain any reward for the killing of a wolf, or issue any fraudulent or unauthorized certificate or warrant therefor, or claim reward upon a wolf which he has in any way protected, or upon any tame or captive wolf, either full blood or crossed, or upon the offspring of any tame or captive wolf, shall be guilty of a gross misdemeanor, the punishment for which shall be a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not less than sixty days nor more than six months, or both such fine and imprisonment; provided, that the provisions of this section shall not be deemed to supersede or to exclude the operation of any other penal law which may be applicable. (R. L. '05, §2401; G. S. '13, §5201; Apr. 25, 1931, c. 368, §5.)

County auditors and other officers issuing certificates for payment of wolf bounties on fox violate both §6258 and §1053, and may be removed from office. Op. Atty. Gen. (47f), March 17, 1938.

6259. Bounties on gophers, ground squirrels, ground hogs, woodchucks, rattlesnakes, crows or blackbirds.—Any county board or board of town supervisors may by resolution offer a bounty for the destruction of gophers, ground squirrels, ground hogs, or wood chucks, rattlesnakes, crows or blackbirds. The resolution may be made to cover the whole or any part of the county, and may be annually renewed, but it shall have force and effect only during the calendar year in which it was adopted or renewed. The bounty shall in no case exceed five cents for each pocket gopher, three cents for each common gopher or ground squirrel; fifteen cents for each ground hog, or wood chuck; fifty cents for each rattlesnake, and ten cents a dozen for blackbirds and ten cents for each crow killed during such months as may be designated by said county board or board of town supervisors by resolution. (As amended Mar. 4, 1939, c. 40.)

Town need not pay bounties on gophers and crows which were killed outside the town. Op. Atty. Gen., Mar. 18, 1931.

Baby rattlesnakes individually killed would be proper for bounty, but where death and killing of mother snake would result in death of baby snakes, only one bounty should be paid. Op. Atty. Gen. (47G), July 31, 1939.

6260. What must be produced, etc.

Town need not pay bounties on gophers and crows which were killed outside the town. Op. Atty. Gen., Mar. 18, 1931.

6260-1. Bounty for foxes.—Any county board may by resolution offer a bounty for the destruction of grey or red foxes. The resolution may be made to cover the whole or any part of the county, and may be annually renewed, but it shall have force and effect only during the calendar year in which it is adopted or renewed. (Act Apr. 24, 1931, c. 309, §1; Apr. 14, 1939, c. 258, §1.)

Bounties cannot be paid on red foxes. Op. Atty. Gen. (47), March 2, 1938.

6260-2. Claimant to produce carcass.—Within 30 days after the killing, the claimant shall produce the entire carcass of the animal in the presence of two witnesses to the clerk of the town wherein the ani-

mal was killed, or, if the animal was killed in unorganized territory, to the nearest town clerk in the same county, and shall make and deliver to the town clerk a written statement of his claim under oath, in duplicate, describing the animal as adult or cub, as the case may be, specifying the time and place of the killing thereof by the claimant, and stating that he did not on that occasion spare the life of any grey or red fox he could have killed. All animals produced at any one time shall be included in one statement.

The clerk shall examine each carcass produced in the presence of the witnesses, and shall make such further investigation as may be necessary to verify the statements of the claimant. For the purposes of such investigation the clerk may examine under oath with respect to any pertinent matter the claimant and any other persons having knowledge of the facts, and may attach a statement of such investigation and examination to the statement of the claim. The toes of both front feet of the animal shall then be removed in the presence of the clerk and the two witnesses.

The claimant may then remove the hide, including the scalp and ears, and shall then bury, destroy or otherwise properly dispose of the remainder of the carcass. (Act Apr. 24, 1931, c. 309, §2; Apr. 14, 1939, c. 258, §2.)

6260-3. Town clerk to make certificate.—The town clerk if satisfied that the statements of the claimant are true, that the requirements of the law have been complied with and that the claimant is entitled to the bounty claimed, shall make a certificate in duplicate so stating, and specifying that the requirements of the preceding section have been complied with. Both duplicates of the certificate shall be attested by the two witnesses and one shall be attached to each duplicate of the statement of the claim. All animals produced at any one time shall be included in one certificate. Both duplicates of the certificate and statement shall be delivered to the claimant, who shall pay a fee of thirty-five cents therefor. The clerk shall keep a record of all certificates issued by him, showing the date of issuance of each certificate, name of claimant, number and kind of animals

killed, and date and place of the killing thereof. (Act Apr. 24, 1931, c. 309, §3; Apr. 14, 1939, c. 258, §3.)

6260-4. Certificate to be presented to county auditor.—The claimant shall produce both duplicates of the statement and certificate, together with the hide of each animal described therein, with scalp and ears intact, to the county auditor. The auditor shall examine the same, and if he finds that the statement and certificate are in proper form, and if he is satisfied that the hides produced are those of the animals described in the statement and certificate, that the requirements of the law have been complied with and that the claimant is entitled to the bounty claimed, he shall punch a three-eighths inch hole in each ear of each hide presented, and shall issue to the claimant a warrant upon the county treasurer for the sum due.

The county auditor shall keep a record of all claims for such rewards allowed and paid by him, showing the same items as hereinbefore specified for the records of the town clerk, also the numbers, dates, and amounts of all warrants issued in payment of such claims, specifying whether for state or county rewards. (Act Apr. 24, 1931, c. 309, §4; Apr. 14, 1939, c. 258, §4.)

6260-5. Penalty for fraudulent claim.—Every person who shall fraudulently claim or obtain any bounty for the killing of a grey or red fox, or issue any fraudulent or unauthorized certificate or warrant therefor, or claim reward upon a grey or red fox which he has in any way protected, or upon any tame or captive grey or red fox, or upon the offspring of any tame or captive grey or red fox, shall be guilty of a gross misdemeanor, the punishment for which shall be a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not less than 60 days nor more than six months, or both such fine and imprisonment; provided, that the provisions of this section shall not be deemed to supersede or to exclude the operation of any other penal law which may be applicable. (Act Apr. 24, 1931, c. 309, §5; Apr. 14, 1939, c. 258, §5.)

CHAPTER 40

Public Lands

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates a new department of conservation, to which is transferred the powers of the state auditor and commissioner of the state land office with respect to the public lands.

SALES BY AUDITOR [DEPARTMENT OF CONSERVATION]

6261. School lands—Price.

State cannot be estopped to claim a judicial cancellation of certificates where timber-bearing school land was sold as agricultural land without separate sale of timber, or the collection in cash of the value thereof. *State v. Hamre-Hogenson Holding Co.*, 183M318, 236NW456. See *Dun. Dig.* 3211.

In condemnation proceedings by state to acquire lands to be transferred to federal government, minimum price for which state trust fund lands may be taken is \$5 per acre, and this includes state swamp lands. *Op. Atty. Gen.* (700d-7), Jan. 20, 1938.

6262. University lands—Minimum price.

Legal title to University permanent trust fund land is vested in state subject to trust imposed thereon for use and benefit of University to be appropriated and applied as legislature may prescribe for use and support of the University, and in absence of legislation to that effect, department of conservation is without authority to transfer administration, sale, lease, demise, control or management of University trust fund lands to Board of Regents of the University. *Op. Atty. Gen.* (618c-2), Dec. 13, 1938.

6264. Swamp lands—Minimum price.

Sale of certain swamp lands in Koochiching county authorized. *Laws* 1939, c. 279.

6267. Terms of payment—Interest.

Amendment of §6293 and 6294 by *Laws* 1937, Ex. Sess., c. 39, had the effect of repealing §6294, and rate of interest to be charged from May 31, 1937, on payments due on school land is 4%. *Op. Atty. Gen.* (700a-1), Jan. 7, 1938.

A 15% payment on improved land complies with law. *Op. Atty. Gen.* (700d-28), Feb. 17, 1938.

6269. Sales by subdivisions.

Sale of trust fund lands may be in areas as large as one quarter section. *Op. Atty. Gen.* (700d-28), Feb. 17, 1938.

6277. Appraisal of school or other state lands—appointment of appraisers—appraisals—sales—homesteaders—improvements—contests.—Whenever in the opinion of the Commissioner of Conservation of the State of Minnesota it will be for the public interest that an appraisal of any of the school or other state lands should be made, he shall appoint one appraiser, who shall be one of the regularly employed state appraisers, and notify the Governor, who shall appoint one appraiser. Such appointment shall be made within 30 days after such notice. Each appraiser shall, before entering upon the duties of his office, take and subscribe an oath, before any person qualified to administer oaths, that he will faithfully and impartially discharge his duties as appraiser, according to the best of his ability, and that he is not interested directly or indirectly in any of the