

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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CHAPTER 54
Unclaimed Property

7306. Unclaimed money in court, how disposed of—Etc.

Where during bank holiday as a condition to continuing in business a bank reorganized and questionable securities were removed from assets and transferred to a trustee who made distribution but had on hand a substantial sum in unclaimed dividends, commissioner of banks had no official duty to perform in regard thereto, unclaimed dividends being in hands of a trustee appointed under a trust agreement and subject to supervision of district court under §8100, and not being subject to §7614, and not dormant or abandoned within meaning of §7658-21, the pertinent statute being §7306, requiring payment of unclaimed dividends into court for benefit of persons entitled thereto. Op. Atty. Gen. (29B-14), August 21, 1939.

COMMON LAW
DECISIONS RELATING TO CHAPTER
IN GENERAL

1. Lost property in general.

Automobiles abandoned on city street, owners being unknown, may be removed by city officials to a local garage for storage or safe keeping, and later be sold for storage charges under unclaimed property statute or motor vehicle storage lien statute. Op. Atty. Gen. (632a), Dec. 2, 1937.

Rights of finder and owner of locus in quo in lost personal property. 21MinnLawRev191.

CHAPTER 55

Hotels and Public Resorts

7312. Hotel and innkeepers to have safes.

Where a hotel accepted ring for delivery to a guest, a manufacturing jeweler who had long been one of its regular patrons, well known to the management, resulting bailment was for benefit of both bailor and bailee. Peet v. R., 191M151, 253NW546. See Dun. Dig. 732, 4511.

Guest having delivered a valuable ring to hotel, claim that no contract of bailment resulted because of hotel's ignorance of value of article was untenable. Id. See Dun. Dig. 728, 4511.

Section held not applicable to an action for loss of property by fire in a hotel room due to failure of defendant to exercise ordinary care in rescuing plaintiff and his property after fire started. Knutson v. F., 202M642, 279NW714. See Dun. Dig. 4511.

7313. Loss or injury to baggage.

Section held not applicable to an action for loss of property by fire in a hotel room due to failure of defendant to exercise ordinary care in rescuing plaintiff and his property after fire started. Knutson v. F., 202M642, 279NW714. See Dun. Dig. 4511.

7314. Liability of hotel and innkeeper.

Evidence held to sustain finding that innkeeper was guilty of negligence with respect to property of guest destroyed by fire. Knutson v. F., 202M642, 279NW714. See Dun. Dig. 4511.

Section held not applicable to an action for loss of property by fire in a hotel room due to failure of defendant to exercise ordinary care in rescuing plaintiff and his property after fire started. Id. See Dun. Dig. 4511.

In action by guest against innkeeper for loss of property in a fire, burden was upon defendant to show his freedom from negligence in causing loss and injury. Id. See Dun. Dig. 4511, 4513.

7316. Lien of inn keeper.

Proprietor of an apartment hotel, who prevented tenant from entering rooms, let by the week, for purpose of removing personal property, was not an innkeeper having a lien against property but was a landlord, and was guilty of coercion. State v. Bowman, 202M642, 279NW214. See Dun. Dig. 2648, 4514, 5361, 5382.

Right to lien upon baggage is not predicated on license. Op. Atty. Gen., Mar. 19, 1934.

Distinction between guests, lodgers, and tenants as affecting offense of coercion. 22MinnLawRev1055.

7318. Violation a misdemeanor.

There is no law making registration at a hotel under assumed name a crime. Op. Atty. Gen. (494a), Aug. 3, 1934.

7321. Equal rights in hotels, etc.

A complaint, charging that the plaintiff, on entering a cafeteria for the purpose of being served food, was told that he was too dirty to be served and would have to get out, and was refused service, when in fact his clothing and person were clean, does not state a cause of action either for slander or for deprivation of any civil rights. Larson v. W., 183M28, 235NW393. See Dun. Dig. 4509.

CHAPTER 56

Auctioneers

7322. Licenses—Persons entitled to.—The county board or auditor may license any voter in its county, or any person from another state, as an auctioneer. Such license shall be issued by the auditor and shall authorize the licensee to conduct the business of an auctioneer in the state of Minnesota for the period of one year. It shall be recorded by the auditor in a book kept for that purpose. Before such license is issued the licensee shall pay into the county treasury a fee of ten dollars (\$10.00), provided, however, that for a nonresident the license fee shall be \$25.00. Provided, that any person may be licensed as an auctioneer for the purpose of making sales of purebred or grade livestock only upon the payment of the fee and the giving of the bond as above provided. Provided, further, that any person resident in an adjoining state which issues auctioneers' licenses to residents of Minnesota on the same basis as to the residents of such adjoining state, may be licensed as an auctioneer upon payment of the fee required there-

for in such adjoining state and giving an approval of a bond as provided in the next succeeding section. (As amended Apr. 21, 1937, c. 313, §1.)

An ordinance for regulating of auctions and auctioneers, imposing a minimum license fee of \$250, is so unreasonable as to be invalid. Orr v. C., 193M371, 258NW569. See Dun. Dig. 716, 6794.

Specific delegation to a municipal corporation of power, by ordinance, to license and regulate auctions and auctioneers does not include, by implication, power to prohibit an established retail jeweler from selling his own merchandise at auction. Id.

Any person may be licensed as an auctioneer to make sales of livestock without regard to his residence. Op. Atty. Gen., Dec. 10, 1929.

Minnesota cannot license a resident of Iowa. Op. Atty. Gen., Feb. 27, 1931.

Non-residents from an adjoining state which does not issue auctioneers' licenses to residents of this state on the same basis as to residents of such adjoining state cannot be licensed to conduct auction sales of goods other than live stock. Op. Atty. Gen., Feb. 3, 1932.

The holder of a void auctioneer's license could not rely upon such license as a defense to a criminal action. Op. Atty. Gen., Feb. 3, 1932.

Resident of Iowa is not entitled to a license in this state. Op. Atty. Gen. (16c), Dec. 31, 1935.

License held by Iowa resident in this state being void, it would constitute defense to criminal prosecution. Id.

Resident of another state may be licensed in any county to conduct sales of pure bred and grade livestock upon paying fee and putting up bonds. Op. Atty. Gen. (16c), Mar. 8, 1937.

A nonresident auctioneer cannot legally be teamed up

with Minnesota licensed auctioneer and conduct sales as agent of Minnesota licensee under his license. Id.

License may cover both pure bred and grade livestock. Id.

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

7327. Unlicensed sales.

Owner of goods may not sell them at auction without license. Op. Atty. Gen., Oct. 5, 1929.

CHAPTER 56A

Hawkers, Peddlers, and Transient Merchants

HAWKERS AND PEDDLERS

7328. Engaging in business without license, etc.

Op. Atty. Gen., June 5, 1933; note under §4367.

A salesman representing a wholesaler dealing exclusively with retail merchants and not consumers is not a "peddler." Op. Atty. Gen., July 2, 1930.

One holding a wholesale produce dealer's license is not thereby relieved from the necessity of taking out a peddler's license. Op. Atty. Gen., Mar. 12, 1931.

Persons who sell to dealers only are not peddlers. Op. Atty. Gen., July 8, 1933.

Game wardens are authorized to participate in and supervise sale of rough fish and are not subject to municipal ordinances regulating transient merchants. Op. Atty. Gen. (208i), Dec. 2, 1937.

Where a veteran conducting a general merchandise business employs another veteran to peddle from house to house, veteran operating store need not obtain a peddler's license, but his employee, though a veteran, must purchase license. Op. Atty. Gen. (290j), Dec. 7, 1937.

One taking an agency for purpose of selling merchandise manufactured by particular company and making deliveries when he receives orders must obtain a license. Op. Atty. Gen. (290j), March 14, 1938.

Many tank wagon operators, also remedy salesmen and tea and grocery truck operators, should have a license, and a tank wagon may call to deliver a telephone order of gasoline, and become a peddler when driver tries to sell and deliver other items carried with him. Op. Atty. Gen. (290j-8), July 27, 1939.

7332. Right of municipalities, etc., to regulate.

Ordinances regulating hawkers and peddlers and solicitors must be reasonable and not prohibitory. Op. Atty. Gen. (477b-21), Sept. 30, 1935.

A municipality may ordain that practice of peddlers and solicitors in going upon private premises and homes and soliciting orders without an invitation by occupants thereof is a nuisance. Op. Atty. Gen. (477b-21), Oct. 16, 1935.

A municipality may prescribe reasonable conditions as to time when, places where, and manner in which right of farmer to sell product may be exercised, so long as no license is required, and conditions are reasonable. Id.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Act of going upon private premises for purpose of establishing a sales route for butter and bakery products and obtaining permission of owner or occupants to come upon their premises in future for purpose of soliciting order for such commodities, is not "soliciting orders" or "disposing of or peddling or hawking" such commodities within meaning of so called "Green River Ordinance". Op. Atty. Gen. (59a-32), July 6, 1938.

Validity of municipal legislation imposing a tax on solicitation of orders for future delivery. 18MinnLaw Rev476.

Validity of ordinance making soliciting of orders at private residence a nuisance. 23MinnLawRev88.

7334. Farm and garden products.

An ordinance which requires "transient merchants" selling or displaying for sale "natural products" of the farm, including such commodities as cattle, hogs, sheep, veal, poultry, eggs, butter and fresh or frozen fish, to be licensed and to file a bond and exempts from its provisions persons selling produce raised on farms occupied and cultivated by them, and persons selling milk, cream, fruit, vegetables, grain or straw, is violative of state and federal constitutional prohibitions against class legislation. State v. Pehrson, 287NW313. See Dun. Dig. 1673.

TRANSIENT MERCHANTS

7337. Engaging in business without license.

175M374, 221NW428.

7338. License, how applied for and issued—Fees.

A transient merchant who has obtained a license in compliance with city ordinance is also compelled to obtain a license from county auditor under this section. Op. Atty. Gen., Oct. 6, 1932.

7340. Transient merchant defined.

A farmer who buys products from other farmers in the vicinity and sells them must take out a peddlers' license. Op. Atty. Gen., Oct. 14, 1931.

A farmer who occupies a stand on a public highway and sells the products of his garden and also products which he does not raise is a transient merchant who must have a license. Op. Atty. Gen., Oct. 23, 1931.

City of Pipestone has authority to regulate "transient merchants" but not "transient dealers." Op. Atty. Gen., Oct. 9, 1933.

A dry cleaner and dyer having a place of business in some other city and soliciting in neighboring towns is not a hawker, peddler or a transient merchant. Op. Atty. Gen. (477b-8), Apr. 25, 1935.

One who shipped furniture in car load lots to a local merchant for purpose of sale by the merchant at public auction is a transient merchant required to have a license if he does not part with title to the merchandise and no bona fide contract is made that would in any way bind local merchant to take goods. Op. Atty. Gen. (477b-21), May 16, 1935.

Vendors who go from house to house with truck selling tea, coffee and spices are not "transient merchants" and are not subject to be licensed and regulated under general law. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Selling bread from truck at houses is "peddling" and may be licensed or regulated. Id.

Soliciting for dry cleaning is not "peddling." Id.

Game wardens are authorized to participate in and supervise sale of rough fish and are not subject to municipal ordinances regulating transient merchants. Op. Atty. Gen. (208i), Dec. 2, 1937.

Section 1186(12) gives village authority to license and regulate transient dealers in accordance with §7340. Op. Atty. Gen. (290p), April 21, 1939.

7342. Not applicable to certain sales.

A farmer who occupies a stand on a public highway and sells the products of his garden and also products which he does not raise is a transient merchant who must have a license. Op. Atty. Gen., Oct. 23, 1931.

A person selling goods by sample for future delivery is neither a peddler nor a transient merchant and his business is not subject to a regulation by a village. Op. Atty. Gen. (59a-32), May 9, 1934.

7343. Right of municipalities, etc., to regulate.

Transient merchant obtaining license under city ordinance must also obtain one from county auditor. Op. Atty. Gen., Oct. 6, 1932.

A village may not, under guise of licensing, adopt an ordinance which is prohibitive. Op. Atty. Gen., May 18, 1933.

A village may regulate hawkers, peddlers, transient merchants and solicitors, but may not prohibit doing business by them within village, though it is probable that proper ordinances could be passed making it a nuisance to solicit orders upon private premises without invitation or consent of occupants. Op. Atty. Gen. (477b-21), Oct. 15, 1937.

Section contemplates that municipality adopting an ordinance regulating transient merchants must have power to do so under charter or laws under which it is operating. Id.