

130278

1941 Supplement

To

Mason's Minnesota Statutes

1927

1939 to 1941

(Supplementing Mason's 1940 Supplement)

Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

Edited by
the
Publisher's
Editorial Staff

*Minnesota State Library
St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

Regulation relating to labeling and standards of all of non-intoxicating malt beverages is valid. Op. Atty. Gen., (218h-2), April 5, 1940.

3200-68. Unstamped liquor confiscated.

If bottles of whiskey taken from a bootlegger's car do not bear proper tax stamps they may be confiscated as contraband property pursuant to this section, but if they bear proper tax stamps they cannot be confiscated except by order of court after a conviction under some law. Op. Atty. Gen., (218f-3), Oct. 31, 1939.

3200-69. Offenses—Felony.

Sale of liquor in refilled bottles or changing alcoholic content of original packages or bottles is unlawful. Laws 1941, c. 16.

SEARCHES AND SEIZURES

3200-81. Search and seizure of intoxicating liquor.

This act does not apply to places selling 3.2 beer without a license. Op. Atty. Gen. (218f-3), May 28, 1940.

3200-84. Sheriff's contingent fund established.

Money received from licenses is not included in fund. Op. Atty. Gen., (390a-10), Feb. 13, 1940.

MISCELLANEOUS OFFENSES

3200-85. Refilling bottles.—It shall be unlawful for any person to sell, offer for sale or keep for sale intoxicating liquors in any package or intoxicating liquor bottle which has been refilled or partly refilled. (Act Feb. 21, 1941, c. 16, §1.)

3200-86. Dilution and adulteration.—It shall be unlawful for any person holding an intoxicating liquor license, directly or through any agent, employee or other person, to dilute or in any manner tamper with the contents of any original package or bottle so as to change its composition or alcoholic content while in said original package or bottle; and possession on the licensed premises by any licensee of any intoxicating liquor in the original package or bottle, differing in composition or alcoholic content from such liquor when received from the manufacturer or wholesaler from whom it was purchased, shall be prima facie evidence that the contents of said original package or bottle has been diluted, changed or tampered with. (Act Feb. 21, 1941, c. 16, §2.)

3200-87. Gross misdemeanor.—Any person who violates the provisions of this act, as provided in sec-

tions 1 and 2, shall be guilty of a gross misdemeanor. (Act Feb. 21, 1941, c. 16, §3.)

PRIOR LAWS

3238-3. Places where sale forbidden.

There is no state law prohibiting licensing or operation of a place for sale of intoxicating liquor near a church. Op. Atty. Gen. (218g-1b), Mar. 27, 1941.

3238-4. Persons to whom sales, etc., illegal.

Provisions forbidding sale of intoxicating liquor by persons who have been blacklisted do not apply to sale of non-intoxicating malt beverages. Op. Atty. Gen. (218e), June 6, 1940.

Municipal liquor store may not sell intoxicating liquor to father of a minor child, such liquor to be consumed by such minor upon the premises. Op. Atty. Gen. (218j-12), Sept. 5, 1940.

Indian rights and the federal courts. 24MinnLawRev 145.

3238-9. Sales, etc., to minors; etc.

Provisions forbidding sale of intoxicating liquor by persons who have been blacklisted do not apply to sale of non-intoxicating malt beverages. Op. Atty. Gen. (218E), June 6, 1940.

3238-12. Exclusion from places where liquor is sold to minors, etc., after notice—Penalty.

Where mayor of village in a dry county posted a notice in a beer parlor not to sell beer to a certain person, and was sued for libel, village council may reimburse mayor for attorneys fees and other expenses, and also a reasonable sum paid in settlement. Op. Atty. Gen., (469B-1), Nov. 16, 1939.

3238-18½. Sale by employee.

Revocation of license is mandatory where violation of statutes is wilful, otherwise revocation is discretionary, and violation by an employee would be discretionary unless licensee himself had knowledge of act and consented to or acquiesced in it, and there should be a hearing whether or not there has been a conviction for a violation. Op. Atty. Gen. (218g-14), April 8, 1940.

Section does not apply to off-sale liquor stores. Op. Atty. Gen. (218j-10), May 28, 1940.

CIVIL ACTIONS

3239. Action for injuries caused by intoxication.

Whether minor purchased or was given liquor at bar and as a result thereof died in jail, warranting recovery of damages by parents, held for jury, even though he committed suicide. *Sworski v. C.*, 293NW297. See Dun. Dig. 4928a.

A person is liable for giving as well as selling liquor. *Id.*

CHAPTER 16A

Cigarettes

3242. Licensing of sale of cigarettes; etc. [Repealed.]

Repealed. Laws 1941, c. 242.
Repealed. Laws 1941, c. 405.

3243. Licenses for sale and manufacture of cigarettes. [Repealed.]

Repealed. Laws 1941, c. 242.
Repealed. Laws 1941, c. 405.
Blind persons may manufacture or sell cigarettes without payment of license fee. Laws 1941, c. 461.

3243-1. Exemptions—Blind persons.—No applicant for any license required of persons for the sale or manufacture of cigarettes shall be required to pay any fee to the state or any political subdivision thereof if he furnishes a doctor's certificate showing that he is blind, as defined by Laws of 1937, Chapter 324. (Act Apr. 26, 1941, c. 461, §1.)

3244 to 3248. [Repealed.]

Repealed. Laws 1941, c. 242.
Repealed. Laws 1941, c. 405.
Sec. 2, Act Apr. 24, 1941, c. 405, provides that the powers and duties of the commissioner of taxation with respect to enforcement of cigarette license law shall continue until Dec. 31, 1941, and thereafter to the extent necessary to enforce penalties previously accrued.

3250-1. Repeal.—Mason's Minnesota Statutes of 1927, Sections 3242, 3244, 3245, 3246, 3247, and Mason's Supplement 1940, Sections 3243 and 3248, are

hereby repealed, effective December 31, 1941. (Act Apr. 16, 1941, c. 242, §1; Act Apr. 24, 1941, c. 405, §1.)

3250-2. Powers and duties of Commissioner of Taxation Continued.—The powers and duties of the commissioner of taxation with respect to the enforcement of the laws relating to licensing the manufacture and sale of cigarettes shall continue until December 31, 1941, and thereafter to the extent necessary to enforce penalties and collect fees accruing prior to said date. (Act Apr. 16, 1941, c. 242, §2; Act Apr. 24, 1941, c. 405, §2.)

3250-3. License and retail sale to be regulated by local governing bodies.—The governing body of each village, borough, and city of any class, may, after January 1, 1942, license and regulate the sale at retail of cigarettes, cigarette paper or cigarette wrappers and may fix the license fee therefor at not to exceed \$12.00 per annum, and provide for the punishment of any violation of such regulations, and may make such other provisions for the regulation of the sale of cigarettes within its jurisdiction as are permitted by law. The county board may make like provisions for licensing and regulating the sale of cigarettes in areas outside the limits of any municipality, provided that

no license shall be issued for the conduct of such business in any town, unless the consent of the governing body of such town, if organized, is filed with the application for such license. (Act Apr. 16, 1941, c. 242, §3; Act Apr. 24, 1941, c. 405, §3.)

3250-4. Fees, benefits.—The fees for licenses granted by the governing body of any municipality shall be for the benefit of the municipality; fees for licenses issued by the county board shall be paid to the county treasurer who shall apportion ten per cent thereof to the general revenue fund of the county and the balance to the town in which the business licensed is conducted. If a license is issued by the county board for the conduct of business in an area outside the limits of any organized town or municipality, the entire fee shall be paid to the general revenue fund of the county. (Act Apr. 16, 1941, c. 242, §4; Act Apr. 24, 1941, c. 405, §4.)

3250-5. Licenses not affected.—This act shall not affect the validity of any license issued prior to December 1, 1941. (Act Apr. 16, 1941, c. 242, §5; Act Apr. 24, 1941, c. 405, §5.)

3250-6. State dairy and food commissioner to issue license to common carriers—Enforcement of law—Violation.—Subdivision 1. The state dairy and food commissioner may issue a license or permit to any railroad company, dining car company or sleeping car company or other common carrier operating in this state, to sell cigarettes upon any club, parlor, dining,

buffet, observation, cafe, lounge or passenger car. Each such company applying for such license shall pay to the dairy and food commissioner a fee of \$25.00 per annum. A duplicate of such license shall be posted in each such car in which cigarettes are sold. The license so granted shall govern and permit the sale of cigarettes in the state of Minnesota, or in any political subdivision thereof, in any club, parlor, dining, buffet, observation, cafe, lounge or passenger car which is part of a train or which is about to become a part of a train then being operated or to be operated in this state. Such cigarettes are to be sold only to bona fide passengers or persons actually being transported.

Subdivision 2. It shall be unlawful to sell, exchange, barter, dispose of or give away, or keep for sale any cigarettes on any such car without first having obtained the license herein provided.

Subdivision 3. The state dairy and food commissioner, his inspectors and assistants and employees, shall enforce the provisions of this section, and the fees collected shall be paid into the state treasury by the dairy and food commissioner.

Subdivision 4. Any person violating any of the provisions of Section 6 of this act shall be guilty of a misdemeanor. (Act Apr. 16, 1941, c. 242, §6; Act Apr. 24, 1941, c. 405, §6.)

Editorial note.—Both of the acts given as credits for §§3250-1 to 3250-6, are identical except that the former limits the annual license fee at \$1,200, while the latter limits the annual license fee at \$12.00.

CHAPTER 16B

Athletic Commission

3260-5. Duties of commission.

Commission should supervise and collect a tax on a school boxing tournament where an admittance charge is made. Op. Atty. Gen. (596B-6), Feb. 27, 1941.

CHAPTER 17

Illegitimate Children—Bastards

3261. Complaint—Where filed—Warrant.—On complaint being made to a justice of the peace or municipal court by any woman who is delivered of an illegitimate child, or pregnant with a child which, if born alive, might be illegitimate, accusing any person of being the father of such child, the justice or clerk of the court shall take the complaint in writing, under her oath, and thereupon shall issue a warrant, directed to the sheriff or any constable of the county, commanding him forthwith to bring such accused person before such justice or court to answer such complaint; which warrant may be executed anywhere within the state. Such complaint shall be filed and further proceedings had either in the county where the woman resides or in the county where the alleged father of the child resides or in the county where the child is found, if it is likely to become a public charge upon such county.

It shall be the duty of the county attorney, if the complaint seems to be justified, to prosecute such actions and he shall institute appropriate proceedings for the enforcement of orders of the court. The county attorney may, on the written request of the defendant, file such complaint in the district court accompanied by said written request and a waiver by the defendant of his right to a preliminary examination. The county attorney may then bring the defendant before the judge of said court at any time for the adjudication of the paternity of such child and the making

of an order for its support. (As amended Apr. 9, 1941, c. 150, §1.)

3265. Trial—Exclusion of public—Reading preliminary examination—Adjudication of paternity—Judgment—Default—Commitment to jail—Duties of County Welfare board or director of social welfare—Bond for payment of support, etc.—Upon the trial in district court the judge may at his discretion exclude the general public from attending at such trial and shall do so at the request of either party. The examination taken before the justice or judges of the municipal court shall in all cases be read to the jury when demanded by the defendant. If he is found guilty, or admits the truth of the accusation, he shall be adjudged to be the father of such child and thenceforth shall be subject to all the obligations for the care, maintenance and education of such child, and to all the penalties for failure to perform the same, which are or shall be imposed by law upon the father of a legitimate child of like age and capacity. Judgment shall also be entered against him for all expenses incurred by the county for the lying-in and support of and attendance upon the mother during her sickness, and for the care and support of such child prior to said judgment of paternity, the amount of which expenses, if any, shall also be found by the judge, together with costs of prosecution. If the defendant fails to pay the amount of such money judgment forth-