

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 Law Library
St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

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-

with, or during such stay of execution as may be granted by the court, he shall be committed to the county jail, there to remain until he pays the same or is discharged according to law; provided, however, that no stay shall be granted unless the defendant shall give a bond to the county, in such sum and with such sureties as shall be approved by the court for the payment of such money judgment on or before the expiration of such stay. Upon due notice to the county welfare board or the director of social welfare and the duly appointed guardian, if any, the judge of the district court before whom the proceedings are pending shall make and enter an order, directing and requiring the father of such child to pay to the county welfare board, or the director of social welfare such sum of money or its equivalent, as may be proper and adequate for the care, maintenance, and education of such child. (As amended Apr. 9, 1941, c. 152, §1.)

Laws authorizing court to order blood grouping test in cases of disputed paternity. *Beach v. E.*, (AppDC), 114F(2d)479.

3266. Father to pay all expenses.

Uniform Illegitimacy Act of South Dakota, providing for imprisonment for failure to file bond for support of

child, does not violate any constitutional provision of that state. *Acker v. A.*, 293NW(SD)83.

3272. (a) Director of social welfare may make settlement.—The director of social welfare shall have authority to accept from the acknowledged or adjudicated father of the child such sum as shall be approved by the court having jurisdiction of proceedings to establish the paternity of the child, in full settlement of all obligations for the care, maintenance and education of such child; and shall hold or dispose of the same as ordered by said court. Such settlement shall discharge the father of all further liability, civil and criminal, on account of such child, provided that such settlement shall not affect any liability of the father under Section 3266. (As amended Apr. 9, 1941, c. 152, §2.)

(b) * * * * *

Names of mother and child should not be published in county annual financial statement in connection with expenditures for hospital care and maintenance. *Op. Atty. Gen.* (277c-1), Jan. 27, 1941.

CHAPTER 18

Public Examiner

3274. Department established—Powers and duties.

Water, light, power and building commission of a village has no authority to engage private auditor. *Op. Atty. Gen.*, (476a-1), April 1, 1940.

3281. School districts, towns and villages.

Neither village council nor commission should engage a private auditor to audit books and records in reference to municipal light plant, at least in absence of special circumstances. *Op. Atty. Gen.*, (476a-1), Dec. 5, 1939.

There is no authority for village to hire private auditors. *Op. Atty. Gen.*, (353a-3), Feb. 1, 1940.

3286. Assistants and employees and bonds to be given.

Public examiner has power to recommend that town-

ships use calendar year as their fiscal years. *Op. Atty. Gen.*, (353a-3), Jan. 11, 1940.

3286-6. State Auditor to certify amount due.

Section 3286-6 authorizes county auditor to make levy to pay for state's claim of public examination as an additional levy without regard to 17 mill limitation imposed by §2060-2. *Op. Atty. Gen.* (5190), Dec. 18, 1940.

3286-12. Shall collect information from municipalities.

City clerk may not be paid additional compensation for work in making out report of city affairs upon request of state public examiner. *Op. Atty. Gen.*, (60), March 1, 1940.

CHAPTER 19

Insurance

3287. Department of insurance.

Term of officer of commissioner of insurance is now 6 years, vacancies to be filled for unexpired portion of any term, and he cannot hold over until appointment and qualification of his successor. *Op. Atty. Gen.* Feb. 3, 1941.

3288. To enforce laws.

An annuity contract issued by a life insurance company, is not a "security" of sort dealt with by blue sky law, and is not subject to administrative powers of security commission. *Bates v. E.*, 288NW834. See *Dun. Dig.* 1125a.

3292. Examinations.

"Convention plan" of examination of insurance companies as adopted by National Association of Insurance Commissioners, and method of handling compensation of representatives given leave of absence, discussed. *Op. Atty. Gen.*, (250), Nov. 27, 1939.

3294. Commissioner may appoint examiner.

"Convention plan" of examination of insurance companies as adopted by National Association of Insurance Commissioners, and method of handling compensation of representatives given leave of absence, discussed. *Op. Atty. Gen.*, (250), Nov. 27, 1939.

GENERAL PROVISIONS

3306. Valuation of bonds, etc.—All bonds or other evidences of debt having a fixed term and rate held by an insurance company or fraternal beneficiary association authorized to do business in this state may, if amply secured and not in default as to principal

and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, provided that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and, provided further, that the commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule. If notes or bonds secured by mortgage or trust deed in the nature thereof which the Federal Housing Administrator has insured or made a commitment to insure are purchased above par, they may, if not in default as to principal and interest, be valued during the first five years after purchase on the basis of the purchase price adjusted in equal annual installments to bring the value to par at the end of five years. (As amended Apr. 9, 1941, c. 141, §1.)

3314. Insurance defined—Unlawful contracts—Contracts deemed made in this state.

Non-profit hospital service plan corporations shall be subject to insurance plans of state. *Laws* 1941, c. 53.

Where there is a conflict between provisions of an insurance policy form and terms inserted in such form to cover a particular case, latter must be accepted as dis-