

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

PART III.—NEGOTIATION AND TRANSFER OF RECEIPTS

5150. Rights of person to whom a receipt has been negotiated.

Where consignee is entrusted by consignor with possession of merchandise for purposes of sales, with authority to pass title thereto, and consignee, in violation of trust and confidence reposed in him, deals with consigned merchandise fraudulently and disposes of it to innocent purchaser for value, without notice, in manner not authorized by consignment agreement, consequences of such wrongdoing fall upon consignor, who voluntarily furnishes consignee with means of wrongdoing, rather than upon innocent third party. *Lippincott Distributing Co. v. P.*, 30NE(2d)(Ohio)691.

Where one entrusted with possession of merchandise on consignment from owner places it in warehouse and obtains negotiable warehouse receipts therefor, and subsequently pledges them to bank as collateral security for promissory note, and bank thereafter takes possession of merchandise by virtue of such warehouse receipts, title of bank in such merchandise is superior to that of consignor. *Id.*

UNIFORM WAREHOUSE RECEIPTS ACT

5172. Supervision by Commission over warehousemen.—That the Railroad and Warehouse Commission shall have general supervision of all warehousemen doing business in cities and villages in this state having a population of 5,000 or more persons according to the last federal census or within five miles of the boundary of such cities or villages, as warehousemen are defined in this act, and shall keep itself informed as to manner and method in which their business is conducted. It shall examine such business and keep itself informed as to its general condition. Capitalization, rates and other charges, its rules and regulations, and the manner in which the plants, equipments and other property owned, leased, controlled or operated, are constructed, managed, conducted and operated, not only with reference to the adequacy, security and accommodation afforded to the public by their service, but also in respect to the compliance with the provisions of this act or with the orders of the commission. (As amended Apr. 9, 1941, c. 139, §1.)

5173. Construction of various terms.—(a) The word "commission" when used in this act shall mean the Minnesota State Railroad and Warehouse Commission.

(b) The term "commission" when used in this act means one of the members of the commission.

(c) The term "warehouseman" when used in this act means and includes every corporation, company, association, joint stock company or association, firm, partnership or individual, their trustees, assignees or receivers appointed by any court whatsoever, controlling, operating or managing in any city or village in this state having a population of 5,000 or more persons according to the last federal census or within five miles of the boundary of such city or village in this state, directly or indirectly, any building or structure or any part thereof, or any buildings or structures, or any other property whatsoever and using the same for the storage or warehousing of goods, wares or merchandise for hire, but shall not include persons, corporations or other parties operating grain or cold storage warehouses.

(d) The term "corporation" when used in this act includes any corporation, company, association, joint stock company or association.

(e) The term "person" when used in this act includes any individual, firm, or copartnership.

(f) The term "service" when used in this act is used in its broadest sense and includes not only the use and occupancy of space for storage purposes, but also any labor expended and the use of any equipment, apparatus and appliances or of any drayage or other facilities, employed, furnished or used in connection with the storage of goods, wares and merchandise, subject to the provisions of this act.

(g) The term "rate" when used in this act includes every individual or joint rate, charge or other compensation of any warehouseman, either for storage or for any other service furnished in connection therewith, or any two or more such individual or joint rates, charges or other compensations of any warehouseman, or any schedule or tariff thereof, and any rule, regulations, charge, practice or contract relating thereto. (As amended Apr. 9, 1941, c. 139, §2.)

LIVE STOCK COMMISSION MERCHANTS

5230. Defined—License—Bond.

Livestock community sale bond executed by a partnership should be signed by all partners. *Op. Atty. Gen.*, (293a-3), Dec. 28, 1939.

CHAPTER 28A

Department of Weights and Measures

WEIGHING AND GRADING OF SLAUGHTER LIVESTOCK

5285-18. Buyers must be licensed after June 30, 1935.

Livestock community sale bond executed by a partnership should be signed by all partners. *Op. Atty. Gen.*, (293a-3), Dec. 28, 1939.

CHAPTER 28A-1

Telephone Companies

5291. Commission to fix reasonable rates.

Section impliedly authorizes commission to sanction new rates proposed by a telephone company without formal notice of hearings and taking of testimony, if satisfied that rates are just and reasonable. *Lenihan v. T.*, 293NW601. See *Dun. Dig.* 9583a.

Parties to pending rate litigation commission representing public, and defendant telephone company had right to compose and end controversy by superseding schedule of rates fixed by order sustained by supreme court by schedule of rates promulgated by subsequent order. *Id.*

Penalties paid by telephone subscribers were not part

of "excess sums" required to be refunded by judgment of court requiring company to refund difference between amount charged under old rate and amount charged under new rate authorized by commission, and telephone company was not required to set off amount of excess charge under old rate against subsequently accruing bills so as to entitle subscribers to discounts for prompt payment thereof. *State v. Tri-State Tel. & Tel. Co.*, 295 NW511. See *Dun. Dig.* 9583a.

5298. Commission given power to delegate authority to employees.

Lenihan v. T., 293NW601; notes under §5291.

5302. Municipalities given right to operate telephone exchanges.

Act is limited to a telephone exchange within borders of municipality. Op. Atty. Gen. (98a), June 10, 1940.

5307. Expense of furnishing transcribed copy of records.

Lenihan v. T., 293NW601. Cert. den. 61SCR392. Reh. den. 61SCR448.

5311-2a. Same—Investigation fund—Appropriation.

Minnesota Telephone Rate Investigation Fund, abolished. Act Apr. 28, 1941, c. 548, §43.

5312. Town boards may construct; etc.

Statutes relating to town telephone lines do not apply to villages. Op. Atty. Gen. (98a), June 10, 1940.

CHAPTER 28B

Department of Banking—Division of Banking in
Department of Commerce**5323. Powers and duties of superintendent.**

This section supersedes §7640. Op. Atty. Gen., (29a-6), April 12, 1940.

Control of payment of dividends by state bank is within power of commissioner of banks, and he is not required to sit idly by until some provision of law is violated before he can act. Op. Atty. Gen. (29a-15), Nov. 13, 1940.

5332. Fees for examination of financial institutions.

—Each bank, trust company, savings bank, local or general building and loan association and credit union organized under the laws of this state, shall pay into the state treasury for each authorized regular or special examination made at any time by the commissioner of banks of such institution, a fee to be determined as follows:

In the case of state banks, trust companies or savings banks, for the first examination in each calendar year a minimum fee of \$60.00 plus an amount equal to three cents for each \$1,000 of assets in excess of \$25,000, and not exceeding \$200,000; where the assets exceed \$200,000 and do not exceed \$400,000, a minimum fee of \$80.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$400,000 and do not exceed \$600,000, a minimum fee of \$100.00 plus three cents per \$1,000 of assets in excess of \$25,000; where the assets exceed \$600,000 and do not exceed \$1,000,000, a minimum fee of \$125.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$1,000,000 and do not exceed \$2,000,000, a minimum fee of \$150.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$2,000,000 and do not exceed \$3,000,000, a minimum fee of \$200.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$3,000,000, a minimum fee of \$300.00 plus three cents for each \$1,000 of assets in excess of \$25,000, and in the case of trust companies an additional amount equal to two

cents for each \$1,000 value of properties held in trust for the benefit of others.

For a second examination within the same calendar year the examination fee shall be computed on the above basis except that the amount of the minimum fee shall be reduced by 75 per cent.

In the case of local building and loan associations, for each examination, a minimum fee of \$25.00, plus an amount equal to ten cents per \$1,000 of assets in excess of \$15,000 and less than \$5,000,000 plus an amount equal to five cents per \$1,000 of assets in excess of \$5,000,000.

In the case of credit unions a fee of \$10.00 of assets up to and including \$2,000; where the assets exceed \$2,000 and do not exceed \$10,000, a fee of \$12.50 plus an amount equal to \$1.00 per \$1,000 of assets over \$2,000; where the assets exceed \$10,000 and do not exceed \$100,000 a fee of \$15.00 plus a sum of \$1.00 per \$1,000 of assets over \$2,000 and less than \$100,000; where the assets are \$100,000 or more a fee of \$15.00 plus an additional amount equal to \$1.00 per \$1,000 of assets over \$2,000 and less than \$100,000, plus an amount equal to 50 cents per \$1,000 of assets of \$100,000 or over; except that in the case of credit unions with assets over \$50,000 the fee shall be based on the above schedule, or on the basis of \$15.00 per diem for the actual time of each person spent in connection with the examination; whichever is lower. Each new credit union shall pay an application fee of \$25.00.

Said fees shall be paid by the institution examined within 20 days after a statement of the amount thereof shall have been rendered the institution examined by the commissioner of banks, and if not so paid shall bear interest at the rate of six per cent per annum. (As amended Act Apr. 28, 1941, c. 488, §1.)

This section supersedes §7650. Op. Atty. Gen., (29a-16), April 12, 1940.

CHAPTER 29

Public Health

5339. General duties of board—Reports.

Powers of State Board of Health in enforcement of laws relating to water pollution and sewage disposal stated. Op. Atty. Gen. (225m), Nov. 23, 1940.

5345. State board of health, general and special rules.

City may not expend money for development of a swimming beach in a river if project has been condemned by state department of health pursuant to regulations. Op. Atty. Gen. (63B-1), April 29, 1940.

Powers of State Board of Health in enforcement of laws relating to water pollution and sewage disposal stated. Op. Atty. Gen. (225m), Nov. 23, 1940.

State Board of Health may properly and legally accept for examination and approval or disapproval plans for water, sewer and refuse disposal system prepared by architects and engineers of other states who do not hold Minnesota licenses. Op. Atty. Gen. (225M), Feb. 21, 1941.

5348. Local boards—Health officers.

County is not liable for any part of local health officer's salary, even though a part of it might be

earned while establishing, enforcing, or releasing quarantine of communicable diseases. Op. Atty. Gen., (225i-2), Dec. 6, 1939.

Section 5348 and §5351 do not contemplate county paying any part of money expended by town for services of regular medical health officer, whether he be physician member of town board or one appointed by chairman to fulfill duties of former. Op. Atty. Gen., (225i-2), Dec. 22, 1939.

A village health officer must be a licensed physician, but need not be a resident of the village. Op. Atty. Gen., (225i-6), March 8, 1940.

There is no rule requiring a permit from health officers for every pupil who may return to school after being absent more than 2 days, but certain permits must be obtained where illness appears. Op. Atty. Gen. (169L), Mar. 14, 1941.

5351. Powers of health officer in assuming jurisdiction over communicable diseases.

County is not liable for any part of local health officer's salary, even though a part of it might be earned while establishing, enforcing, or releasing quarantine of