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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  
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(c) Whenever it is determined by the board that it is necessary to eradicate the dangerous, infectious, communicable foot and mouth disease among domestic animals in the state in co-operation with the United States Bureau of Animal Industry and to appraise and destroy animals affected with or which have been exposed to this disease, or to destroy property in order to remove the infection and complete the cleaning and disinfection of the premises or to do any act or incur any other expense reasonably necessary in suppressing this disease, the board may accept, on behalf of the state, the rules and regulations adopted by the United States Bureau of Animal Industry under authority of an act to Congress, or such portion thereof deemed necessary, suitable or applicable, and co-operate with the United States Bureau of Animal Industry in the enforcement of such rules and regulations so accepted; or it may follow such procedure only as to quarantine or inspection or condemnation or appraisal or destruction or burial of animals, disinfection and other acts deemed by it reasonably necessary in the suppression of this disease as may be agreed upon and adopted by the board and representatives or authorized agents of the United States Bureau of Animal Industry, the total expense to be shared equally between the state and federal government.

The appraisals of animals affected with or exposed to foot and mouth disease, or contact animals shall be made by an appraisal board consisting of a representative of the board, a representative of the United States Bureau of Animal Industry and the owner of the animals or his representative, such appraisals, in writing, and signed by the appraisers, to be made at the true market value of all animals.

Upon destruction and burial of such animals, and the completion of the cleaning and disinfection of the premises, the state livestock sanitary board shall certify the appraisal to the auditor of the state, who shall draw a warrant on the state treasurer for one-half the amount thereof payable to the owner, and

the remaining one-half of such appraisal to be paid by the federal government under such co-operative arrangement. (As amended Act Mar. 15, 1941, c. 67, §1.)

**5437. Bonds.**

One bond in sum of \$5,000 qualifies a company for any number of distributing agencies, but consent of surety on bond originally given should be obtained before issuing permit for additional distributing agencies. Op. Atty. Gen., (293B-12), March 5, 1940.

There is no statutory authority for execution by any state official of cancellation certificates as means of terminating liability of surety, but board may write a letter to surety stating that permit of principal expired on a certain day. Op. Atty. Gen. (293a-3), Aug. 24, 1940.

**CATTLE WITH BANG'S DISEASE**

**5460-26. Cattle owners to assist in making test.—**

Whenever in accordance with this act the board by its order has fixed the time for commencement of testing in any area, all cattle owners and persons in possession of cattle in the area shall upon demand submit the same for Bang's disease testing and physical examination by the board or its authorized agent or agents, and all such persons shall assist the board and its agents in applying said tests and in making such physical examinations whenever the board or its agents enter upon the premises where such cattle are located and makes demand therefor, or in making any retest of cattle within such area, as provided in this act. Such owner or person in possession shall account for all animals tagged in making such tests and retests, and shall submit all such cattle to the board or its agents at any time when the board or its agents visit said premises to make further tests or examinations. Such owner or person in possession shall also remove from the premises or segregate reacting cattle or cause the same to be slaughtered as required by said board, and shall not use milk or milk products, or sell or dispose of the same, from reacting cattle unless the milk or the milk from which said products have been made has been properly pasteurized. (As amended Mar. 28, 1941, c. 95, §1.)

CHAPTER 31

Inspection of Steam Vessels and Boilers

**5474. District boiler inspector—Appointment, etc.**

Boilers belonging to a state department must be inspected and department must pay fee. Op. Atty. Gen., (33c), Dec. 18, 1939.

Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

**5486. Allowance of and aiding inspection—License, etc.**

It is not necessary for employee of a city lighting and heating plant working under supervision of a chief engineer to take out a steamfitter's license in order to make minor repairs, and they need not secure an engineer's license unless they are entrusted with operation

of a steam boiler or steam machinery. Op. Atty. Gen., (34f), Oct. 18, 1939.

It is not necessary for a civil service employee of federal government operating a boiler upon federal property to have a state boiler license. Op. Atty. Gen., (34f), March 29, 1940.

**5490. District boiler inspector to deliver certificates—Fees for inspection.**

Boilers belonging to a state department must be inspected and department must pay fee. Op. Atty. Gen., (33c), Dec. 18, 1939.

Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

CHAPTER 31A

Inspection and Regulation of Aircraft

UNIFORM STATE LAW FOR AERONAUTICS

**5494-16. Certain acts a misdemeanor.—**Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this state, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, or shall engage in advertising through the playing of music, or transcribed or oral announcements, or

make noise with any siren, horn, whistle, or other audible device which is not necessary for the normal operation of said aeroplane, shall be guilty of a misdemeanor. (As amended Act Apr. 23, 1941, c. 386, §1.)

MUNICIPAL FLYING FIELDS

**5494-37. Cities and villages may equip air fields.**

City may purchase land contiguous thereto for a municipal golf course or airport without approval of voters, but cannot issue bonds without approval. Op. Atty. Gen., (59B-11), May 24, 1940.

**5494-38. County board may acquire airports.**—The board of county commissioners of any county in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of such counties, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county. The power or authority granted to any county or other political subdivision of the state by the provisions of Mason's Supplement 1940, Sections 5494-37 to 5494-47, inclusive, may, in any county of this state having at any time an area of over 5,000 square miles and a population of over 200,000 inhabitants, or in any county of this state having at any time an area of over 1,000 square miles and a population of over 30,000 inhabitants and containing not more than 45 full and fractional congressional townships, be exercised in co-operation with the governing body of any other such political subdivision in such county, as well as separately, in order to carry into effect the powers herein granted, whenever the governing body or bodies of any such political subdivision shall determine it to be in the public interest. Any co-operative agreement entered into between the governing bodies of any two or more such political subdivisions, either for the carrying on or abandon-

ment of any airport or landing field in such county shall be binding upon their respective political subdivisions.

Any payments heretofore made by any such county having over 5,000 square miles of area and a population of 200,000 inhabitants, or by any county having at any time an area of 1,000 square miles and a population of over 30,000 inhabitants and containing not more than 45 full and fractional congressional townships, to any other political subdivision of said county, is hereby legalized and declared valid in all respects; provided that no such counties or political subdivision in such counties shall, jointly or separately, have authority to spend in any calendar year more than \$50,000, in order to carry into effect the powers herein granted. Any such expenditures shall be included in, and shall not be in excess of, any limitations on expenditures of such political subdivision now fixed by law. (As amended Act Apr. 16, 1941, c. 264, §1.)

**5494-39. May exercise power of eminent domain.**

Under Uniform Airports Act municipality may condemn land beyond its limits and even within geographical limits of another municipality. *Howard v. A.*, 10SE(2d)(Ga) 190.

**5494-44. Bonds may be issued.**

Act Apr. 16, 1941, c. 257, enables villages having population in excess of 10,000 to issue bonds to complete construction of airports under construction.

## CHAPTER 32

### Preservation of Game and Fish

#### PART I.—TITLE TO WILD ANIMALS: TAKING: TRANSPORTATION

**5496. Ownership in state.**

Wild life is a subject of ownership only when reduced to possession. *Minnesota Valley Gun Club v. N.*, 290NW 222. See Dun. Dig. 3934.

While title to wild life is in the state as trustee, owner of land has a qualified property interest in that it is he who has exclusive right to reduce game to possession. *Id.* See Dun. Dig. 3933.

**5498. Manner of taking game.**

Removal of forearm of shot gun and leaving it partially broken open is not "taking apart". *Op. Atty. Gen.*, (208e-3), Oct. 20, 1939.

A "case" means a case especially designed to contain a gun, and a mere wrapping of cloth, clothing or articles does not comply with statute. *Op. Atty. Gen.*, (208e-3), Oct. 24, 1939.

A muskrat trapper who goes out half an hour before opening time of opening day of season, digs a hole in several muskrat houses and leaves unset trap there for apparent purpose of claiming possession ahead of others when season opens, does not violate §5542, but may be prosecuted under §5498. *Op. Atty. Gen.*, (210a-5), May 16, 1940.

**5498-1. Use of certain ammunition prohibited.**—

It shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state with a rifle or firearm which discharges a projectile the diameter of which projectile is less than twenty-three one hundredths of an inch; and provided further, that it shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state except with cartridges not less than one and three-fourths inches in length and containing a soft point or expanding bullet, said measurement to include the cartridge or shell and the bullet seated in the usual manner; and provided further, that nothing herein contained shall prohibit the use of cartridges less than one and three-fourths inches in length provided such cartridges are at least .35 caliber or larger. (Act Apr. 24, 1941, c. 412, §1.)

**5498-2. Same—Shot or buckshot.**—

It shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state with cartridges containing shot or buck shot. (Act Apr. 24, 1941, c. 412, §2.)

**5498-3. Violation of act.**—Any person convicted of a violation of any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 or more than \$100.00, or, in the discretion of the court, by imprisonment in the county jail for a period of not less than 30 days or more than three months. (Act Apr. 24, 1941, c. 412, §3.)

**5505. Transportation and exportation of salable fish and game.**—Subdivision 1. Any person may transport within this state or from a point within to a point without this state during the open season any wild animals or parts thereof, which may be lawfully sold, except as specifically prohibited by this chapter.

Subdivision 2. Any person, except agents or employees of a common carrier while engaged in the performance of their duties, may transport in a vehicle, boat, or other means of transportation otherwise than by common carrier, or may carry with him as baggage on a common carrier to any place within the state any wild animals, including fish, which may be legally in his possession, and common carriers are hereby permitted to carry such wild animals as baggage within the limits herein prescribed. If any such wild animal is carried as baggage and is contained in any package, sack, crate or other container there shall be attached to the outside thereof a tag signed by the licensee, written or printed, showing the name and address and license number of such licensee and the number and kind of wild animals or parts thereof contained in the same.

Subdivision 3. Any resident of this state may ship or transport by common carrier to any point in the county in which he resides, consigned to himself only, during any one open season not more than 45 game birds, of which not more than 36 may be water fowl, rails, or shore birds, and not more than nine may be upland game birds; provided, that not more than three shipments may be made in any one season and no shipment shall contain more than 12 waterfowl, rails or shore birds of all kinds in the aggregate, nor more than three upland game birds of all kinds in the