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(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.

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CHAPTER 35A

Collection Agencies

5888. To file bond with secretary of state—Conducting agency, etc.

Collection agencies are not licensed by the state but need only file a bond. Op. Atty. Gen., (828G), April 10, 1940.

A justice of the peace must file a bond before engaging in collection agency business, but need not be licensed under any state law. Id.

5889. Amount and conditions of bond.—Said bond shall be in the sum of five thousand dollars (\$5,000.00) and shall provide that the person, partnership, association or corporation giving the same shall, upon written demand, pay and turn over to or for the person, partnership, association or corporation for whom any account, bill or other indebtedness is taken for collection the proceeds of such collection in accordance with the terms of the agreement upon which such amount, bill or other indebtedness was received for collection. Said bond shall also provide that the per-

son, partnership, association or corporation giving the same shall, upon written demand, and within ten (10) days after such demand give the person, partnership, association or corporation for whom any account, note, bill or other indebtedness, or evidence thereof, is taken for collection, a statement verified by affidavit, of all monies or things received or collected thereon, such statement showing also the amounts retained or claimed as collection or service charges on each separate item upon which any collection shall have been made; and if so demanded, shall also within said time return, subject to any lien for expenditures or services, all such accounts or statements thereof, notes, bills or other evidence of indebtedness to the person, partnership, association or corporation from whom any of the same shall have been received for collection. Said bond shall be in such form as the attorney general shall prescribe. (As amended Act Apr. 24, 1941, c. 407, §1.)

CHAPTER 36

Protection against Fire and Regulation of Hotels and Restaurants

HOTELS, THEATERS AND OTHER BUILDINGS

5903. Defining hotels, restaurants, lodging houses, boarding houses, etc.

A gasoline filling station selling more than forty different articles for automobile and home use is a "general merchandise store" and need not obtain a license to sell soft drinks. State v. Comer, 290NW434.

If there is no consumption of beverages on premises, it is not necessary for off sale licensee to obtain a refreshment license from division of hotel inspection. Op. Atty. Gen., (238f), Oct. 23, 1939.

Factory lunch room primarily used by employees must have restaurant license. Op. Atty. Gen. (238j), Dec. 5, 1940.

5904. Governor to appoint hotel inspector.

The hotel inspector, now referred to as director of division of hotel inspection under the department of health, is head of a division established by law and is of the unclassified service. Op. Atty. Gen. (644), Sept. 20, 1940.

State statutes take precedence over municipal ordinances where there is a conflict. Op. Atty. Gen. (83f), Nov. 7, 1940.

5905. Hotels, restaurants, lodging houses, boarding houses, etc., to be licensed—Fees.

A state by virtue of its police power can require those selling soft drinks to procure a license. State v. Comer, 290NW434. See Dun. Dig. 1608.

5907. Plumbing, lighting, heating, etc.

See also notes under §9164, note 14.

Evidence that hotelkeeper permitted presence of ice on foot mat in lobby entrance on which guest slipped, held sufficient to show negligence. Green v. E., 295NW905. See Dun. Dig. 4513.

Owner and lessor of hotel premises who reserved no right of possession and control of hotel entrance was not liable for negligence of hotelkeeper in permitting presence of ice on foot mat in lobby entrance. Id. See Dun. Dig. 5369.

5911. Revocation of license.

Unless complaints and violations are covered by provisions of this section, and requirements of hotel inspection acts contained therein by reference, division of hotel inspection has no power to revoke license of a restaurant. Op. Atty. Gen., (238f), Oct. 13, 1949.

MOVING PICTURES

5920. Cinematograph to be enclosed in booth.

Distribution of motion picture films. Laws 1941, c. 460.

5935. Size of aisles and to be free from obstruction.

Operator of a theatre is bound to exercise ordinary or reasonable care to keep its premises in a safe condition

for persons who come upon them by its express or implied invitation, but as to a licensee is not required to guard premises against obvious risks and dangers that exist thereon. Radle v. H., 296NW510. See Dun. Dig. 6984, 6985, 9623b.

A woman going on premises of a theatre in response to a letter requesting her to bring her child to try out in a "talent contest," was an invitee and not a licensee. Id.

STATE FIRE MARSHAL

5950. Duties of such officers and assistants.

(3).

State department of education has all powers conferred upon it by statute with respect to construction of school houses, except that there is confided by statute to state fire marshal the discretion to determine adequacy under state laws of means of exit and number of exits in school buildings. Op. Atty. Gen. (197g), Jan. 7, 1941.

5955. Officers to investigate origin of fires.

It is not the duty of a city or village fire chief to make report to fire marshal on fires occurring outside city or village limits, and they are not entitled to compensation for such reports, even though contract provides for service in adjoining town, clerk of town board of town in which fire occurs being person required to report such fires. Op. Atty. Gen. (197), Dec. 16, 1940.

5961. May order certain buildings repaired or torn down.

Where fire marshal demolishes structure located on state owned property and against which there is an indebtedness owing to a city water department, net proceeds of sale, after deduction of expenses of fire marshal, should be delivered to county treasurer for distribution. Op. Atty. Gen., (197c), Oct. 2, 1939.

5961-1. State Fire Marshal may repair or demolish certain structures.—The state fire marshal is hereby authorized to petition the district court of any county for an order of condemnation directing the destruction, repair or alteration of any building or structure located on land owned by and/or on land held in trust by the state, which is especially liable to fire and dangerous to life and limb, within the purview of the provisions of Section 5961, Mason's Minnesota Statutes of 1927. In case the petition is for an order requiring repairs the person or persons authorized by law to make such repairs, and upon whom such order is served, shall make such repairs as thereby directed, and the order may direct that the building or structure be closed and not further used or occupied until such repairs are made. Upon the filing of such petition

with the district court wherein any such building or structure is located, the court shall make a temporary order directing the state fire marshal to serve a copy of such petition and a copy of the temporary order upon the Minnesota Tax Commission, and the County Board of the County wherein such lands are situated, and if such lands are situated in cities of the first class, then also upon the assessor of such city of the first class within such time as may be fixed by the court in said order. If within twenty days no objections are filed to said petition by the parties so served, the court may require the state fire marshal to present sufficient proof to sustain the allegations set forth in his petition, and thereupon the court may or may not make, as the case may require, an order of condemnation and direct the state fire marshal to proceed with the destruction of the building or structure; but if objections are filed and a copy of such objections have been duly served upon the state fire marshal within twenty days of the service of the copy of the temporary order and copy of the petition hereinbefore referred to, the court, upon application by the state fire marshal, shall make its order fixing the time and place for hearing of the matter, which place may be at any convenient point, at any general or special term, or out of the term, or in chambers within the judicial district where such lands are situated, and which time shall be within ten days from the date of the filing of the objections, or as soon thereafter as may be. If upon such hearing the petition shall be sustained the court shall issue an order of condemnation and fix the time within which the building or structure shall be destroyed, repaired or altered in compliance with such order, and that upon failure of the proper person or persons to comply with the said order the state fire marshal shall proceed with the destruction thereof. If upon the hearing the petition of the state fire marshal is not sustained the court shall deny the petition.

In all cases where the order of the court has not been complied with and the state fire marshal is authorized to proceed with the demolition of any building or structure, the state fire marshal shall sell and dispose of the salvage materials therefrom at public auction upon three days' posted notice, and all expenses incurred by the state fire marshal shall be paid out of the moneys received from such auction of salvage material and any deficit remaining unpaid thereafter may be paid out of the funds created by and provided for in Section 5973 of Mason's Minnesota Statutes of 1927. Should any surplus remain of the amount received for salvage material after deducting the expenses incurred by the State Fire Marshal such surplus shall be paid to the county treasurer of the county where the property was situated to be distributed by him as provided by law. (As amended Apr. 4, 1941, c. 123, §1.)

Where fire marshal demolishes structure located on state owned property and against which there is an indebtedness owing to a city water department, net proceeds of sale, after deduction of expenses of fire marshal, should be delivered to county treasurer for distribution. Op. Atty. Gen., (197c), Oct. 2, 1939.

5980. Declaration for public safety.

State department of education has all powers conferred upon it by statute with respect to construction of school houses, except that there is confided by statute to state fire marshal the discretion to determine adequacy under state laws of means of exit and number of exits in school buildings. Op. Atty. Gen. (197g), Jan. 7, 1941.

5982. Compensation for fires reported.

It is not the duty of a city or village fire chief to make report to fire marshal on fires occurring outside city or village limits, and they are not entitled to compensation for such reports, even though contract provides for service in adjoining town, clerk of town board of town in which fire occurs being person required to report such fires. Op. Atty. Gen. (197), Dec. 16, 1940.

DRY CLEANING AND DRY DYEING BUILDINGS AND ESTABLISHMENTS

5985. State fire marshal to approve use of building.

Fire marshal may exercise his own best judgment with reference to requiring that "synthetic units be prop-

erly grounded," and that electrical equipment be satisfactorily installed in compliance with state law, in dry cleaning establishments. Op. Atty. Gen. (197B), Jan. 9, 1941.

5986. Fee.

Where dry cleaner obtained a renewal of license and paid \$5 and later an inspector made report that certain individual was now operator and owner, from whom \$10 was collected for a new license, when as a matter of fact there was no new owner but only a change in capital stock structure, it would be permissible to allow credit for the second fee and apply it in payment for subsequent renewal licenses. Op. Atty. Gen. (197B), Jan. 16, 1941.

Practice of allowing 30 days from Jan. 31, to renew for a fee of \$5, and after that period to require payment of a \$10 fee, is correct. Id.

Where ownership of plant changes, a \$10 fee is required though plant has been established in same locality for a number of years and has been inspected from time to time. Id.

5988. Renewal of permit.

Where dry cleaner obtained a renewal of license and paid \$5 and later an inspector made report that certain individual was now operator and owner, from whom \$10 was collected for a new license, when as a matter of fact there was no new owner but only a change in capital stock structure, it would be permissible to allow credit for the second fee and apply it in payment for subsequent renewal licenses. Op. Atty. Gen. (197B), Jan. 16, 1941.

5991. Buildings to be fire proof.

Law does not require use of a cleaning liquid having a flash point of 187 Degrees, but is very specific in prescribing type of building. Op. Atty. Gen. (197B), Jan. 9, 1941.

6013. Application.

Amended by Act Apr. 18, 1941, c. 299, §1, to constitute §§6013-1 and 6013-2, post.

6013-1. Application of act to particular sections.—

The provisions of Mason's Minnesota Statutes of 1927, Sections 5993, 5995, 5997, 5999, 6000, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010 and 6011, and Mason's Supplement, 1940, Sections 5991, 5992, 5994, 5996, 6001 and 6012, shall not apply to any dry cleaning or dry dyeing business exclusively using petroleum solvent having a flash point of 140 degrees Fahrenheit or above, determined in the manner provided in Mason's Supplement, 1940, Section 5984, provided that dry cleaning systems in which such solvents are used shall be dry cleaning systems which conform to the Regulations of the National Board of Fire Underwriters for Safeguarding Dry Cleaning and Dry Dyeing Plants published in its pamphlet No. 32 dated August 15, 1936, for the class designated therein as Class II and shall be completely equipped plants employing closed containers and circulating piping for washing, extracting and purification of solvent and shall consist of washer or washers, extractor or extractors, drying tumbler or tumblers, cabinet or cabinets, filter or filters, still, pumps, solvent tanks and piping. (§6013, as amended, Act Apr. 18, 1941, c. 299, §1.)

6013-2. Application of act.—The provisions of this act shall not be held to apply to any building, business or establishment now in use, so as to cause the same to be rebuilt, remodeled or repaired so as to conform to the provisions hereof, but should any building or establishment, or part thereof, be reconstructed, rebuilt or repaired, the same shall be so constructed, built or repaired in conformity to the provisions hereof. Nothing in this act shall be held to in any manner limit the laws which provide against fire hazards in this state. Nothing in this section shall permit any person to operate a business or establishment mentioned in this act without first securing a license as provided herein, for so doing, but the provisions of this section shall be given full consideration by the state fire marshal in issuing licenses to persons now engaged in said business. (§6013, as amended, Act Apr. 18, 1941, c. 299, §1.)