

CHAPTER 18

ENTOMOLOGY; NURSERIES; INSECTS; DISEASES

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18.01 COMMISSIONER TO EMPLOY ENTOMOLOGIST. The commissioner is hereby authorized to employ the entomologist of the experiment station or other expert as state entomologist on part time, or otherwise, to be immediately in charge of the regulatory work, and to employ such other assistants, experts, or otherwise, as shall be necessary to carry out the provisions of this chapter and to pay such compensation as shall be fixed and determined by him, together with the actual and necessary expenses incurred by such assistants in the performance of their official duties. The commissioner shall receive no additional compensation for such services.

[1921 c. 476 ss. 4, 6] (6143, 6145)

18.02 INSPECTION OF NURSERIES. The state entomologist employed by the commissioner is hereby designated as state inspector of nurseries, and is authorized, either himself or by deputies duly appointed by him, to inspect all premises in Minnesota where nursery stock is grown or held for sale, and to inspect all orchards or any premises within the state where he has reason to suspect the presence of injurious insects or injurious and contagious plant diseases. Nursery stock shall be regarded as including all field-grown plants, except herbaceous annuals, of any kind, also trees, field-grown shrubs, vines, cuttings, buds, grafts and scions. For this purpose he or his deputies shall have free access to any field, ground, packing ground, building, cellar, orchard, garden, elevator, warehouse, freight or express office or car, freight yard, vehicle, vessel, boat, container, or other place where the carrying out of the provisions of this chapter shall make necessary. The state inspector of nurseries is empowered and required to grant certificates upon request of such nurseries as he may find free from injurious insects and contagious plant diseases. Such certificates shall be good for one year, unless revoked by him. This inspection of nurseries shall take place between May first and September 30th and such other times as may be necessary to comply with the provisions of this chapter. Nurserymen or others having stock to inspect shall make application to the state inspector of nurseries for the inspection of stock, so far as practicable, on or before May first of each year. It shall be the duty of the inspector or his deputy to make the inspection as soon thereafter as possible.

For inspection of nurseries the fee shall be \$10 per annum for inspection of strawberry plants, evergreens, herbaceous plants, bulbs, and roots; \$15 for inspection of other small fruit plants, together with any or all of the plants men-

tioned heretofore; \$25 for inspection of general nursery stock, including any or all of the plants mentioned heretofore. The determination of the charge or fee as per above schedule, by the state inspector, shall be conclusive on the question of amount of fee that shall be paid. The fee for inspection shall be paid at time of inspection or not later than April first following the date when inspection is completed and before a certificate is granted. If a dangerous insect pest or plant disease is found by the inspector on the premises inspected, and if in his judgment such pest or disease can be eradicated, he may direct the owner or his representative, in writing, what means shall be employed; in case any trees, shrubs, or plants are so infested that treatment would be ineffectual, he may direct the owner or his representative to have them destroyed. This order shall be issued in writing. If the order be not obeyed within ten days after service thereof, the state inspector shall cause the work to be done and render to the owner or persons in charge an itemized bill of the cost; and, if such cost shall not be paid within 60 days thereafter, the bill shall be reported to the county attorney, who shall forthwith collect same in civil action in the name of the state and turn same over to the state treasurer to be credited to the inspection fund.

When the state inspector of nurseries is requested to perform or supervise any inspection, fumigation, or other service for which a fee or charge is not otherwise provided, he may charge and collect for such inspection or other service performed, \$2.00 for each carload or fraction thereof, lot, orchard, or planting. This fee shall be collected from the person making application and shall be paid within 60 days from date of the service. The necessary traveling expenses of the inspector shall be paid by the applicant, in addition to the prescribed fee, unless the service can be performed at a time when the inspector is in the same vicinity for the performance of his regular duties.

[1927 c. 108 s. 1; 1929 c. 59 s. 1] (6145-1)

18.03 DISEASED OR INFESTED TREES, SHRUBS, OR PLANTS; DESTRUCTION; QUARANTINES; IMPORTATIONS PROHIBITED; PENALTIES; RULES AND REGULATIONS. When any tree, shrub, or plant, not itself diseased or infested, which is a host for any organism inducing a plant disease, new to or not heretofore widely prevalent or distributed within or throughout this state, or host for any destructive insect, new to or not heretofore widely prevalent or widely distributed throughout this state, is situate within 3,000 feet of any tree, plant, or shrub which is infested with any such organism or insects, the state inspector of nurseries may, for the purpose of preventing the spreading of such organism or insect, cause such tree, plant, or shrub, not itself so diseased or infested, to be destroyed as hereinafter provided:

(a) If the state inspector of nurseries shall find on examination, any orchard, small fruit planting, park, cemetery, or any private, public or quasi-public property which contains any tree, shrub, or plant, not itself infested or diseased, which is a host for any insect pest or for any organism inducing a plant disease, and which if infested or infected may spread such insect or disease to any plants in adjoining or nearby premises, the state inspector of nurseries may, for the purpose of preventing such damage, cause such tree, plant, or shrub, even though itself not infested or infected, to be destroyed or treated as hereinafter provided;

(b) The state inspector of nurseries shall notify, in writing, the owner or person having charge of such premises, or both of them, to that effect; and the owner or person having charge of the premises shall, within ten days after such notice, cause the removal and destruction of such plants, if incapable of successful treatment; otherwise cause them to be treated as the state inspector of nurseries may direct;

(c) No damages shall be awarded to the owner for the loss or destruction of plants designated under paragraphs (a) and (b); such plants shall be deemed to be a public nuisance;

(d) In case the owner or person in charge of such premises shall refuse or neglect to comply with the provisions of paragraph (b) of this section within ten days after receiving written notice from the state inspector of nurseries, he shall be deemed guilty of a violation of this chapter, and thereafter the state inspector of nurseries may proceed to treat or destroy or cause such plants to be treated or destroyed in a manner prescribed by him;

(e) The expense of enforcing the provision of paragraph (d) shall be a lien upon the owners of such land; such lien shall have the same effect and may be

collected in the same manner as taxes on such land; or the inspector may render to the owner or persons in charge an itemized bill of the cost; and if such cost shall not be paid within 30 days thereafter, the bill shall be reported to the county attorney, who shall forthwith collect same in a civil action in the name of the state;

(f) Any money collected in accordance with the provisions of paragraph (e) of this section shall be paid into the state treasury and credited to the funds provided for this work;

(g) Upon the delivery to him of the appraisers' report, the owner or lessee of the land on which the trees, plants, or shrubs ordered to be destroyed are situate, shall forthwith destroy the same in the manner directed by the state inspector of nurseries, and within the time specified in paragraph (b), and any owner or lessee who fails so to do within a period of five days after the expiration of the time specified in paragraph (b) shall be guilty of a felony, and, in addition to such criminal liability, the state inspector of nurseries may, after the failure of the owner or lessee for said five days to so destroy the same, cause these trees, plants, or shrubs to be destroyed at the expense of the owner, in the manner and as provided in section 18.02, and the expense in such case shall be deducted from the amount payable to the owner. The owner, lessee, or representative shall not be guilty of felony if, within five days after receiving the notice for the destruction of such trees, plants, and shrubs as provided for in paragraph (b), he shall notify the state inspector of nurseries, in writing, that he prefers to have the state inspector destroy such trees, plants, and shrubs as provided in this section;

(h) It shall be the duty of the executive board of the state horticultural society and the director of the experiment station each to furnish to the state inspector of nurseries a list of five practical horticulturists residing in several parts of the state, who possess knowledge of the value of trees, plants, and shrubs, from each of which the appraising committee is chosen;

(i) The state inspector of nurseries is hereby authorized and empowered to prohibit by proclamation, quarantine order, rules and regulations supplemental thereto, the importation into this state or transportation from any area within this state of any plant, tree, shrub, plant products, or other material liable to be infested, which has been grown or propagated in any state, province, or county, or any place where it shall be determined by the state inspector of nurseries, after due investigation, that there exists and is prevalent to a dangerous extent white pine blister rust or any other plant disease, or any destructive insect which is liable to or capable of spreading to, and infecting, the plants, trees, and shrubs of this state, and which may be carried and transported on or in trees, plants, shrubs, plant products, or other material there grown. It shall be the duty of the state inspector of nurseries, upon the making and promulgation by him of any such proclamation, quarantine order, or rules and regulations supplemental thereto, to forthwith mail a copy thereof to each certified nurseryman and to each railroad company doing business in this state, and to publish a copy thereof in a newspaper published at the city of Duluth, and at the city of St. Paul, and any person, firm, or corporation, or common carrier which shall, after 30 days from the date of the proclamation, quarantine order, rule or regulation, introduce or transport any tree, plant, shrub, plant product, or other material grown or propagated in the territory described in such proclamation, or in any other manner fail to comply with the terms, provisions, and conditions of such proclamation, quarantine order, rules and regulations, shall be guilty of a gross misdemeanor, and in case the offender be a corporation shall be punished by a fine of not less than \$25 nor more than \$1,000 for each shipment so introduced, made, or transported. For the purpose of enforcing any such proclamation, quarantine order, rule or regulation, the state inspector of nurseries, or any duly appointed deputy inspector, may intercept, stop and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon or other vehicles or carriers, whether air, land or water, or any container believed or known to be carrying any plant, tree, shrub, plant product, or other material designated by the proclamation, quarantine order, rule or regulation, and may seize, possess and destroy any such plant, tree, shrub, plant product, or other material moved, shipped, or transported in violation thereof;

(j) When the state inspector of nurseries finds or determines that there exists in any other state, territory, or district, or any part thereof, any dangerous plant disease or insect infestation with reference to which the secretary of agriculture of the United States has not determined that a quarantine is necessary, and

the state inspector of nurseries has duly established such quarantine, such state inspector is hereby authorized to promulgate and to enforce by appropriate rules and regulations a quarantine prohibiting or restricting the transportation into or through the state, or any portion thereof, from such other state, territory, or district, of any class of nursery stock, plant, fruit, seed, or other article of any character capable of carrying such plant disease or insect infestation;

(k) The state inspector of nurseries is hereby authorized to make rules and regulations for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plant, fruit, seed, or other article of any character capable of carrying any dangerous plant disease or insect infestation, whether or not a quarantine with respect to which shall have been established by the secretary of agriculture of the United States.

[1927 c. 108 s. 2; 1939 c. 266] (6145-2)

18.04 IMPORTATIONS WITHOUT CERTIFICATES OF INSPECTION ON PACKAGES. No person shall bring into the state, for sale or use therein or reshipment, any trees, plants, vines, cuttings, buds, or other "nursery stock," unless it be accompanied on the outside of each package by the certificate from the inspector or other proper official of the state from which it came, that it has been inspected and found free from any of the pests or diseases referred to. Such certificates shall be prima facie evidence of the facts therein stated, but the state inspector of nurseries may, if deemed necessary, inspect such stock and proceed with respect thereto as provided for in section 18.02.

[1927 c. 108 s. 3] (6145-3)

18.05 COPIES OF STATE INSPECTION CERTIFICATES FILED. A copy of the state inspection certificate granted to any firm in any other state shall be on file with the Minnesota inspector of nurseries before any such firm shall make shipment of nursery stock to be sold or distributed in this state.

[1927 c. 108 s. 4] (6145-4)

18.06 INSPECTION OF NURSERY STOCK. All nursery stock transported from any point in the state to another point within the state must be accompanied by a valid certificate of inspection on the outside of each package. All nursery stock sold or offered for sale shall be in a sound, healthy condition and shall be stored or displayed under conditions which will maintain its vigor. Nursery stock which is dead or so seriously weakened by drying, excessive heat or cold, or any other condition that, in the judgment of the state inspector of nurseries or his deputy, it will be unable to grow with normal vigor when given reasonable care, shall not be sold or offered for sale. It shall be unlawful for any person, firm, or corporation to sell or to offer for sale any nursery stock which has not within one year been officially inspected and found free from dangerous insect pests and plant diseases.

[1927 c. 108 s. 5; 1931 c. 365 s. 1] (6145-5)

18.07 COMMON CARRIERS NOT TO ACCEPT STOCK NOT TAGGED. Railroad and express companies and all common carriers are hereby prohibited from accepting stock not tagged with certificate as above stated, and must promptly notify the shipper. If the shipper does not furnish a certificate, such companies shall report that fact, with the name and address of party offering the stock for shipment, to the state inspector of nurseries.

[1927 c. 108 s. 6; 1931 c. 365 s. 2] (6145-6)

18.08 INSPECTION OF IMPORTED FOREIGN GROWN STOCK. Foreign grown stock imported into Minnesota under the provisions of the federal quarantine law is regarded as coming under the definition of nursery stock, and must be inspected at points of destination. It shall be unlawful for any party to open any package containing such stock from a foreign country unless the inspector or deputy is present. It shall be the duty of the inspector to be present, in person or by deputy, when notified at least 48 hours in advance of the opening of such package.

[1927 c. 108 s. 7] (6145-7)

18.09 DEALER'S CERTIFICATE OBTAINED BEFORE SALE. (a) Any person, firm, or corporation, before offering for sale nursery stock not grown by the person, firm, or corporation, must obtain from the state inspector of nurseries a dealer's certificate unless otherwise granted a regular certificate of inspection, such dealer's certificate to be granted to such person, firm, or corporation for nursery stock purchased from any inspected nursery or for foreign nursery stock inspected in this state. Such dealer's certificate must be obtained whether or not such nur-

sery stock is actually owned by the person, firm, or corporation, except that this provision shall not apply to any bona fide agent of the nursery or bona fide agent of a dealer in nursery stock. The certificate, or a duplicate copy thereof, shall be displayed in a prominent manner at each place where such nursery stock is offered for sale. All dealer's certificates shall expire September 15th of each year. The fee for issuing dealer's certificates as provided herein shall be \$10, and an additional fee of \$5.00 shall be paid for each additional branch store or other premises where such nursery stock is offered for sale by the person, firm, or corporation. Nothing in this section shall be construed as exempting any nursery branch or chain stores from the provisions of Laws 1933, Chapter 213, and acts amendatory thereof.

(b) Before such certificate is granted, the person, firm, or corporation requesting the same shall furnish a sworn affidavit that the person, firm, or corporation will buy and sell only nursery stock which has been inspected by an official state inspector and that the person, firm, or corporation will maintain with the state inspector of nurseries a list of all sources from which nursery stock is secured.

(c) Non-resident nurserymen and dealers desiring to solicit or accept orders for nursery stock in the state shall, upon complying with all other provisions of sections 18.02 to 18.13, and all rules and regulations promulgated thereunder, and upon payment of the registration fee in the like amount of any fee charged by his state to out-of-state nurserymen, agents, or dealers, be entitled to a certificate permitting such persons to solicit or accept orders for nursery stock in this state.

(d) Notwithstanding the provisions of paragraph (c), the state entomologist may enter into reciprocal agreements with the responsible officers of other states under which nursery stock owned by nurserymen or dealers of such states may be sold or delivered in this state without the payment of a Minnesota registration fee provided like privileges are accorded to Minnesota nurserymen, dealers, or agents in such other states and the state entomologist shall find that such other states, before issuing their certificates, require inspections equal to those required under the Minnesota law and the state entomologist may enter into reciprocal agreements with the responsible officers of other states under which nursery stock owned by nurserymen or dealers of such states may be sold or delivered in this state without furnishing bond, without special permit tags of all descriptions, without filing of special invoice, without fumigation of stock, without making special inspection at time of shipping, without signing of special statements concerning locations of stock, or without any other kind of special inspection other than that necessary for complying with the regular filing of the accepted certificate of inspection.

(e) If any of the exemptions provided for in paragraph (d) shall be held invalid by any court of competent jurisdiction, the class held to be invalidly exempted shall forthwith become subject to the provisions of paragraph (c) as if no exemptions had been provided for.

(f) All agents selling nursery stock, or soliciting orders for nursery stock, shall secure from the state entomologist and carry an agent's certificate bearing a copy of the certificate held by the principal. This agent's certificate shall be issued only to agents authorized in writing or upon request of their principal.

[1927 c. 108 s. 8; 1931 c. 365 s. 3; 1935 c. 54 s. 1; 1945 c. 524] (6145-8)

18.10 COOPERATION WITH U. S. DEPARTMENT OF AGRICULTURE. The state inspector of nurseries is hereby authorized, when he deems such action advisable and necessary in carrying out the purposes of this chapter, to cooperate with the United States department of agriculture in connection with any quarantine order or regulation promulgated under or by authority of the provisions of the United States Plant and Quarantine Act of 1912 and the amendments thereto.

[1927 c. 108 s. 11] (6145-11)

18.11 RULES AND REGULATIONS; NOTICE. All rules and regulations promulgated by the state inspector of nurseries under authority of this chapter shall be recorded in the minute book kept for that purpose, and one week's published notice thereof shall be given.

[1927 c. 108 s. 12] (6145-12)

18.12 REPORT AND FINANCIAL STATEMENT OF STATE INSPECTOR OF NURSERIES. The state inspector of nurseries shall, on or before December first of each year, submit a report and financial statement to the commissioner covering the year's work.

[1927 c. 108 s. 13] (6145-13)

18.13 FEES PAID INTO STATE TREASURY. All fees collected hereunder shall be paid into the state treasury and are hereby appropriated for the purpose of carrying out the provisions of this chapter.

[1927 c. 108 s. 14] (6145-14)

18.14 COUNTY BOARD MAY APPROPRIATE MONEY FOR CONTROL OF INSECT PESTS. When recommended so to do by the commissioner, such recommendation being based upon the expert opinion of the state entomologist, the board of commissioners of any county of this state is hereby authorized and empowered to appropriate money for the control of insect pests, plant diseases, bee diseases, or rodents. Such money shall be expended according to technical and expert opinions and plans as shall be designated by the state entomologist.

[1935 c. 29 s. 1] (6145-16)

18.15 BOARD MAY APPOINT SUPERVISOR. The board of commissioners of any county in this state, where the commissioner has recommended appropriation of money for the control of insect pests, plant diseases, bee diseases, or rodents, may appoint, if the state entomologist deems advisable, a part or full time supervisor, whose duty it shall be, acting under the direction of the state entomologist, to institute and carry out such plans and procedures for effective control as the entomologist shall advise.

[1935 c. 29 s. 2] (6145-17)

18.16 COUNTY BOARD TO FIX COMPENSATION. Any person so appointed shall possess such qualifications, technical or expert training, as the state entomologist shall deem necessary, and receive such compensation as may be fixed and determined by the board of county commissioners of the county in which the supervisor is to serve. Such supervisor shall be paid mileage for travel and subsistence expense in accordance with the rules and laws pertaining to these items in the county.

[1935 c. 29 s. 3] (6145-18)

18.17 USES OF APPROPRIATION. Money so appropriated shall be used only for expenses and wages of such supervisor and for the purchase and transportation into the county of materials and equipment as recommended by the state entomologist.

[1935 c. 29 s. 4] (6145-19)

18.18 ORGANIZATION MUST BE COMPLETED BEFORE MONEY EXPENDED. The county supervisor, with the support of the county commissioners, shall organize the owners, renters, and lessees of land within the area infected or infested with diseases, insects, or rodents, according to the plan advocated by the state entomologist. No material or equipment for control shall be distributed to any individual, organization, or unit of organization, until such organization has been perfected to meet the plans as outlined by the state entomologist.

[1935 c. 29 s. 5] (6145-20)

18.19 COUNTY SUPERVISOR AND COUNTY BOARD TO SUPERVISE WORK. The county supervisor and board of county commissioners shall determine on what land within the infested or infected areas the control measures have not been carried out according to the rules and regulations, and it shall be their duty to employ competent persons, in sufficient numbers, to apply such control measures as may be provided for according to this chapter. The county commissioners shall have the power to fix the compensation of such persons so employed, which shall not exceed the sum of \$4.00 for each day actually spent in such work and the necessary expenses incurred therein, and such amount so expended for such labor and expenses may be, by the county commissioners, assessed against each respective tract of land, to be collected in the same manner as taxes are collected. The county commissioners, when necessary, may order the same paid out of the general fund of the county until such time as the tax levy for that purpose has been collected, when it shall be the duty of the county treasurer, upon order of the county commissioners, to reimburse the general fund for such advances.

[1935 c. 29 s. 6] (6145-21)

18.20 OWNERS AND RENTERS TO ORGANIZE. It shall be the duty of all owners, renters, and lessees of land within such infected or infested area, as designated by the state entomologist, to organize, and through such organization to apply for, obtain, and distribute the control materials furnished by the counties for the control of such diseases, insects, or rodents, in strict conformity with the provisions of this chapter and the rules and regulations promulgated by the county commis-

sioners, as herein provided for. It shall likewise be the duty of every owner, renter, or lessee of land within such county, who resides elsewhere but who has notice of the distribution of such poison or other material or equipment, to apply for, obtain, and distribute the same as is required by resident owners, renters, or lessees.

[1935 c. 29 s. 7] (6145-22)

18.21 VIOLATIONS; PENALTIES. Subdivision 1. Every person who shall violate any of the provisions of sections 18.02 to 18.13, or of any quarantine order, rule, or regulation issued thereunder, or who shall neglect or refuse to comply therewith, or with any notice issued thereunder, shall, except as therein otherwise provided, be guilty of a misdemeanor, and his certificate may be forthwith suspended, revoked, or canceled by the state inspector of nurseries upon five days' notice and opportunity to be heard.

Subd. 2. Any person who shall prevent, obstruct, or in any manner interfere with the county authorities or their agents in carrying out the provisions of sections 18.14 to 18.20, or neglects to comply with the rules and regulations of the county commissioners promulgated under authority thereof, shall be guilty of a misdemeanor.

[1927 c. 108 s. 9; 1931 c. 365 s. 4; 1935 c. 29 s. 8] (6145-9, 6145-23)

18.22 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases shall, for the purposes of sections 18.14 to 18.21, be given the meanings subjoined to them.

Subd. 2. **Insect pest.** The term "insect pest" includes grasshoppers, cutworms, army worms, European corn borers, Japanese beetles, chinch bugs, bee moths, and any other insects which the state entomologist may designate as dangerous to agricultural and horticultural crops.

Subd. 3. **Rodents.** The term "rodents" includes such rodents as rats, gophers, mice, and others which the state entomologist may designate as dangerous to the welfare of the people.

Subd. 4. **Diseases.** The term "diseases" refers to such dangerous plant diseases and bee diseases as the state entomologist may designate as dangerous to agriculture, horticulture, and forestry.

[1935 c. 29 ss. 9, 10, 11] (6145-24, 6145-25, 6145-26)

18.23 INSECTS; TREATMENT BY PLANE; DEFINITION. Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following words and phrases shall be given the meanings subjoined to them.

Subd. 2. The term "aircraft" includes heavier than air, propeller driven airplanes and helicopters of any type, which have been equipped with apparatus designed to disperse liquid sprays, dusts, aerosols, or fogs from the air.

[1947 c. 560 s. 1]

18.24 PERMIT; FEE. Subdivision 1. No person shall operate such aircraft without first obtaining from the commissioner of agriculture, dairy, and food a permit therefor.

Subd. 2. To obtain such permit, application therefor shall be filed with such commissioner. Such application shall show the qualifications of the applicant and be accompanied by a \$5.00 fee. If the commissioner of agriculture, dairy and food shall be of the opinion that the applicant is competent and his equipment suitable, a permit shall be issued to expire on December 31 following. The permit shall be subject to rules and regulations promulgated by the commissioner, intended for protection of lives, health, and property, the violation of which is cause for revocation of the permit.

[1947 c. 560 s. 2]

18.25 VIOLATIONS; PENALTIES. Any person who violates the terms of sections 18.23 to 18.26 or violates such rules and regulations is guilty of a misdemeanor.

[1947 c. 560 s. 3]

18.26 RULES AND REGULATIONS. The commissioner shall have power, and it shall be his duty, from time to time, to make and publish uniform rules and regulations not inconsistent with law, to carry out and enforce the provisions of sections 18.23 to 18.26.

[1947 c. 560 s. 4]

18.31 DEFINITIONS. In sections 18.31 to 18.43, unless the context otherwise indicates: (a) "governmental unit" means any city, village, borough, or town; (b) "governing body" means a council, board, body or persons in which the powers of the governmental unit are vested; and (c) "mosquito abatement" means the control, abatement, or prevention of breeding of mosquitoes or such other insects or arachnids (ticks, mites, spiders) as provided in section 18.36.

[1949 c. 404 s. 1]

18.32 DECLARATION OF POLICY. The abatement or suppression of mosquitoes of any kind, whether disease bearing or merely pestiferous, within any or all areas of the state, is advisable and necessary for the maintenance and betterment of the health, welfare and prosperity of the people thereof; and is found and declared to be for public purposes. All areas wherein mosquitoes incubate or hatch are declared to be public nuisances, as harmful or inimical to the health, welfare and prosperity of the inhabitants and may be abated as hereinafter provided. Therefore mosquito abatement may be undertaken, as provided in sections 18.31 to 18.43, in any or all areas of the state by any governmental unit.

[1949 c. 404 s. 2]

18.33 GOVERNMENTAL UNIT MAY ENGAGE IN MOSQUITO ABATEMENT; PROCEDURE. Subdivision 1. Any governmental unit in this state shall have power to engage in mosquito abatement and to establish a mosquito abatement board (a) upon the adoption of a resolution to that effect by the governing body thereof, or (b) upon the adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 2.

Subd. 2. If a petition signed by five per cent of the freeholders in a governmental unit according to the last assessment list, or 250 such freeholders, whichever is the lesser number, is presented to the governing body of any governmental unit requesting it to engage in mosquito abatement a public hearing shall be held thereon by the governing body within 15 days after the presentation of the petition and, if said governing body does not within 15 days thereafter adopt a resolution to undertake mosquito abatement, and if such petitioners within 15 days thereafter pay to the governing body the cost of publishing notice of the election, the governing body to whom the petition is addressed shall order a vote to be taken at the next regular election in the governmental unit (or town meeting in the case of the town) on the proposal to undertake mosquito abatement within said governmental unit. The governing body shall provide ballots to be used at the election or meeting. The ballot shall bear the words "Shall the (governmental unit) of engage in mosquito abatement?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "No" and a square after it. The voters shall indicate their choice by placing a cross mark in one of said squares and a direction to so indicate their choice shall be printed on the ballot. Such ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If the majority of the electors voting on the question vote in the affirmative, the governing body shall take appropriate action as soon as possible to carry on mosquito abatement. If a proposal to undertake mosquito abatement be rejected by the voters it shall not be resubmitted to the voters for two years.

Subd. 3. Whenever any governmental unit by action of its governing body or voters shall have voted to engage in mosquito abatement, such abatement program may be discontinued in the following manner: (a) If the mosquito abatement was originally undertaken by resolution of the governing body, then by the adoption of a resolution to that effect by the governing body, or by the adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 4; and (b) if the mosquito abatement was originally undertaken by the adoption of a proposal to that effect by the voters of the governmental unit, then only by the adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 4.

Subd. 4. If a petition signed by five per cent of the freeholders in a governmental unit according to the last assessment list, or 250 such freeholders, whichever is the lesser number, is presented to the governing body of any governmental unit engaged in mosquito abatement requesting it to discontinue mosquito abatement a public hearing shall be held thereon by the governing body within 15 days after presentation of the petition, and if said governing body does not within 15 days there-

after adopt a resolution to discontinue mosquito abatement, and if such petitioners within 15 days thereafter pay to the governing body the cost of publishing notice of the election, the governing body to whom the petition is addressed shall order a vote to be taken at the next regular election in the governmental unit (or town meeting in the case of a town) on the proposal to discontinue mosquito abatement within said governmental unit. The governing body shall provide ballots to be used at the election or meeting. The ballot shall bear the words "Shall the (governmental unit) of discontinue mosquito abatement?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "No" and a square after it. The voters shall indicate their choice by placing a cross mark in one of said squares and a direction to so indicate their choice shall be printed on the ballot. Such ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the electors voting on the question vote in the affirmative, the governing body shall take appropriate action as soon as possible to discontinue mosquito abatement. If a proposal to discontinue mosquito abatement be rejected by the voters it shall not be resubmitted to the voters for two years.

[1949 c. 404 s. 3]

18.34 ABATEMENT BOARD. Whenever any governmental unit has decided, in the manner required by section 18.33 to engage in mosquito abatement, the governing body of the governmental unit shall appoint three freeholders of the unit to serve as members of a mosquito abatement board, which board shall have the powers specified in section 18.36. Each member of said board shall hold office at the pleasure of the governing body appointing him and shall serve without compensation, except that board members may be reimbursed for actual expenses incurred in fulfillment of their duties on the board not in excess of \$60 annually.

[1949 c. 404 s. 4]

18.35 OFFICERS; MEETINGS. Immediately after their appointment and at the first meeting in each calendar year thereafter the board shall elect one of their number as chairman, one as secretary, and one as treasurer, and shall elect such other officers as they consider necessary. The board shall provide for the time and place of holding regular meetings and may establish rules for proceedings. All meetings of the board shall be open to the public. Two members of the board shall constitute a quorum, but one member may adjourn from day to day. The board shall keep a written record of its proceedings and an itemized account of all expenditures and disbursements and such record and account shall be open at all reasonable times for public inspection.

[1949 c. 404 s. 5]

18.36 POWERS OF BOARD. Any mosquito abatement board, and any joint board established pursuant to section 18.40, shall have power, either by board action or through its members, officers, agent or employees, as may be appropriate: (a) to enter upon any property within the governmental unit at reasonable times to determine whether mosquito breeding exists thereon; (b) to take all necessary and proper steps for the abatement of mosquitoes and such insects and arachnids (ticks, mites, spiders) as the commissioner of agriculture may designate; (c) and subject to the paramount control of county and state authorities, to lagoon and clean up any stagnant pool of water and to clean up shores of lakes and streams and other breeding places for mosquitoes within the boundaries of the governmental unit; (d) to spray with insecticides, approved by the commissioner of agriculture, any area within the boundaries of the governmental unit that it finds to be a breeding place for mosquitoes or other insects or arachnids designated pursuant to (b) above; (e) to purchase such supplies and equipment and employ such labor and assistants as may be necessary and proper in mosquito abatement; (f) to accept gifts of money or equipment to be used for mosquito abatement; and (g) to enter into such contracts as may be necessary and proper to accomplish mosquito abatement.

[1949 c. 404 s. 6]

18.37 COOPERATE WITH STATE DEPARTMENTS. Each mosquito abatement board and each governmental unit engaged in mosquito abatement shall cooperate with the University of Minnesota, the State Department of Agriculture,

the State Board of Health, the State Department of Conservation, the State Agricultural Experiment Station, and the State Highway Department.

[1949 c. 404 s. 7]

18.38 TAX LEVY; COLLECTION; CERTIFICATES OF INDEBTEDNESS.

Subdivision 1. An annual levy of not to exceed one mill on each dollar of assessed valuation may be levied for mosquito abatement purposes on all taxable property in any governmental unit undertaking mosquito abatement as provided in sections 18.31 to 18.43. Such tax shall be certified, levied and collected in the same manner as other taxes caused to be levied by the governmental unit.

Subd. 2. At any time after the annual tax levy has been certified to the county auditor, and not earlier than October tenth in any year, any governing body may, for the purpose of providing the necessary funds for mosquito abatement for the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for the mosquito abatement fund, but certificates shall not be issued in excess of 50 per cent of the amount named in the tax levy, as spread by the county auditor, to be collected for the use and benefit of the mosquito abatement fund, and no certificate shall be issued to become due and payable later than December thirty-first of the year succeeding the year in which the tax levy, certified to the county auditor, as aforesaid, was made. The certificates shall not be sold for less than par and accrued interest, and shall not bear a greater rate of interest than five per cent per annum. Each certificate shall state upon its face that the proceeds of the certificate shall be used for the mosquito abatement fund, the total amount of the certificates so issued, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$100 or a multiple thereof, and may have interest coupons attached, and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation. The proceeds of the tax assessed and collected, as aforesaid, on account of the fund, shall be irrevocably pledged for the redemption of the certificates so issued. The certificates shall be paid solely from the monies derived from the levy for the year against which the certificates were issued, or, if they be not sufficient for such purpose, from the levy for the mosquito abatement fund in the next succeeding year. The money derived from the sale of the certificates shall be credited to the mosquito abatement fund for the calendar year immediately succeeding the making of the levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended.

Subd. 3. All monies received for mosquito abatement purposes, either by way of tax collection or the sale of certificates of indebtedness, shall be deposited in the treasury of the governmental unit to the credit of a special fund to be designated as the mosquito abatement fund, shall not be used for any other purpose, and shall be drawn upon by the proper officials of the governmental unit upon the properly authenticated voucher of the mosquito abatement board. No money shall be paid from such fund except on orders drawn upon the officer of the governmental unit having charge of the custody of the mosquito abatement fund and signed by the chairman and the secretary of the mosquito abatement board. Each mosquito abatement board shall annually file with the governing body of its governmental unit an itemized statement of all receipts and disbursements.

[1949 c. 404 s. 8]

18.39 COMMISSIONER OF AGRICULTURE, DAIRY, AND FOOD; rules. Sub-

division 1. The commissioner of agriculture, dairy and food, (a) may establish rules and regulations for the conduct of mosquito abatement operations of governmental units and boards engaged in mosquito abatement; (b) shall approve mosquito control plans and budgets of mosquito control boards before such plans can be put into operation; (c) may, if he consider it necessary, modify or revoke any approval he may have given to any mosquito control plan upon written notice to the governing body or mosquito abatement board; and (d) shall be ex-officio a member of each mosquito abatement board, and he may appoint representatives to act for him as ex-officio member of any such board.

Subd. 2. The commissioner of conservation shall approve mosquito abatement plans or make such modifications as he deems necessary for the protection of public water, wild animals and natural resources before control operations are started and

any such approval may, if he considers it necessary, be modified or revoked by the commissioner of conservation at any time upon written notice to the governing body or mosquito abatement board.

Subd. 3. If any revision of previously approved plans are necessary during the mosquito control season, any such revision shall be made through joint approval of the commissioner of agriculture, dairy and food and the commissioner of conservation.

[1949 c. 404 s. 9]

18.40 COOPERATION BETWEEN GOVERNMENTAL UNITS. When two or more adjacent governmental units shall have authorized mosquito abatement and appointed the members of the mosquito abatement board, the governing bodies of any such two or more governmental units may, by written contract, arrange for pooling mosquito abatement funds, apportioning all costs, cooperating in the use of equipment and personnel and for engaging jointly in mosquito abatement upon such terms and conditions and subject to such rules and regulations as may be mutually agreed upon. The immediate control and management of the joint project may, by the terms of the written contract, be entrusted to a joint committee composed of the chairman of each of the boards or such other board members as may be agreed upon.

[1949 c. 404 s. 10]

18.41 UNORGANIZED TOWNS; POWERS OF COUNTY BOARD. In any township of this state that is unorganized politically, the county board of the county wherein the township is situated shall have all the rights, powers and duties conferred by sections 18.31 to 18.43 upon the governing bodies of towns (including town boards) and in any such case the county board shall act as though it were the governing body and town board of said township and may authorize and undertake mosquito abatement in any such township and cause taxes to be levied for mosquito abatement the same as though said township were organized politically and said county board were the governing body and town board thereof: Provided, that the cost of mosquito abatement in any such township shall be paid solely by a tax levy on the property within the township where mosquito abatement is undertaken and no part of the expense of mosquito abatement in said township shall be county expense or be paid by any such county.

[1949 c. 404 s. 11]

18.42 COST OF STATE'S SERVICE; REFUNDMENT. The actual cost to the state of any service rendered or expense incurred by the department of agriculture and department of conservation under the provisions of sections 18.31 to 18.43 to or for the benefit of any mosquito abatement board shall be billed to the mosquito abatement board benefiting therefrom and be paid by it as other expenses of mosquito abatement.

[1949 c. 404 s. 12]

18.43 PUBLIC FUNDS, EXPENDITURE, LIMITATION. Nothing contained in sections 18.31 to 18.42 shall be construed to authorize the expenditure of public funds by any governmental unit in excess of the amounts fixed in any law limiting the expenditures of any governmental unit on a per capita basis.

[1949 c. 404 s. 13]