

# MINNESOTA STATUTES 1953 ANNOTATIONS

189

DIVISION OF FORESTRY 88.01

## 85.10 ALEXANDER RAMSEY STATE PARK.

HISTORY. 1911 c 259 s 1, 2; 1953 c 700 s 1.

## 85.12 HORACE AUSTIN STATE PARK

NOTE: Horace Austin State Park transferred to the city of Austin by Laws 1949, Chapter 425.

## 85.163 KILEN WOODS STATE PARK

HISTORY. 1945 c 477 s 1-3; 1951 c 529 s 1.

## 85.164 CARLEY STATE PARK

HISTORY. 1949 c 339 s 1.

## 85.165 OLD MILL STATE PARK

HISTORY. 1951 c 237 s 1, 2.

## 85.177 HELMER MYRE STATE PARK

HISTORY. 1947 c 403 s 1; 1953 c 12 s 1.

## 85.21 STATE OPERATION OF PARK FACILITIES; LICENSE NOT REQUIRED

The legislature did not intend in enacting Laws 1953, Chapter 470, to require motor vehicles of faculty members or students to attach stickers to their motor vehicles while attending or studying at a University station connected with some course of study nor would a motor vehicle serving the station by furnishing material or supplies require a sticker; but a motor vehicle driven to, from, or within the park by guests, visitors, or others for purposes not connected with the work, maintenance, or operation of the station would be required to use stickers on their motor vehicles. OAG July 11, 1953 (330-A-3).

## 85.22 STATE PARKS WORKING CAPITAL FUND.

HISTORY. 1951 c 460 s 1-4.

## FORESTRY

### CHAPTER 88

#### DIVISION OF FORESTRY

NOTE: Laws 1903, Chapter 363, provided for the preservation of forests and the prevention and suppression of forest and prairie fires. Under Laws 1925, Chapter 407, the forest laws were codified, revised, and expanded. It repealed all laws relating to the subject. A state forestry board was created; the state forester was directed to cooperate with certain departments of the state and federal government and with local political subdivisions. The law provided for forest rangers. When the present department of conservation was continued with enlarged powers and duties under Laws 1943, Chapter 60, all duties relating to the subject of forestry were assigned to the department of conservation, forestry division.

**88.01 DEFINITIONS**

**HISTORY.** 1899 c 214 s 1-11; 1901 c 335 s 1; 1903 c 134; 1903 c 363 s 2-9, 11, 13, 16; 1905 c 82; 1905 c 310; 1907 c 171; 1909 c 182; 1911 c 125 s 1-28; 1913 c 115 s 1-7; Ex1919 c 32 s 1-3; 1925 c 263 s 22; 1925 c 407 s 1, 2; 1927 c 247 s 13; 1929 c 219 s 1; 1933 c 331 s 12; 1933 c 402 s 2; 1935 c 331 s 12.

A bargain which tends to the violation of law is invalid as against public policy. Where a bargain for exemption from liability by a common carrier does not relate to duties imposed on carrier by law independent of contract, a contract for indemnity against the exempted liability is lawful, and so also is one for exemption from liability. Public policy permits railroads to procure insurance to protect themselves against losses which may be sustained in negligent operation of their business. *Petit Grain Co. v Northern Pacific Ry. Co.*, 227 M 225, 35 NW(2d) 127.

**88.04 FIRE-BREAKS; PREVENTION OF FIRES**

**HISTORY.** 1911 c 125 s 7; 1925 c 407 s 11; 1949 c 676 s 1.

Since section 88.04 limits the amount to be expended to \$3,000 in any one year, a town cannot proceed under section 365.15, to provide fire protection at an expense in excess of \$10,000. OAG June 11, 1947 (688-K).

If the village council determines that the services of two employees are necessary and incidental to the enforcement of the provisions of sections 88.02 to 88.21 the council may, in the exercise of sound discretion and not arbitrarily, provide that their salary be paid out of the "fire fund," created by section 88.04. OAG Jan. 18, 1952 (469-A-13).

A town board which operates a telephone system and removes brush from the telephone line as a maintenance service may pay the expense thereof from the fire fund provided in section 88.04. OAG Sept. 15, 1952 (916-B).

A contract between a town and village for fire protection must be in writing, section 412.201. It may be made by a town with any adjacent city or village, section 365.18. A contract may be made by a town for fire protection under the provisions of sections 365.15 to 365.19 but subject to limitations prescribed in section 88.04. OAG March 10, 1953 (688-K).

**88.09 FIRE PROTECTION, LANDS, ACQUISITION**

**HISTORY.** 127 c 329 s 1, 2; MS 1927 s 4131-14a, 4131-14b; 1929 c 220 s 1, 2; 1933 c 302 s 1, 2; 1935 c 332 s 1; 1953 c 148 s 1.

**88.11 FIRE PATROLMEN; AID FOR FIGHTING FIRES; REFUSAL; COMMANDEERING PROPERTY**

Property commandeered by the conservation department for fire fighting under the provisions of section 88.11 is payable from appropriations under section 88.02 and not from funds provided by the executive council under section 9.28. OAG Jan. 6, 1950 (9-A-16).

**88.12 COMPENSATION OF FIGHTERS OF FOREST FIRES; EMERGENCY EXPENSES**

Where an automobile commandeered for fire fighting was destroyed, the owner's claim was payable from appropriations available under this section and not from funds provided by the executive council under section 9.28. OAG Jan. 6, 1950 (9-A-16).

**88.19 NEGLECT OR REFUSAL TO PERFORM DUTY**

A railroad may in leasing its own property, insert terms exempting it from liability for loss to leased premises from fires caused by its own or its employee's negligence. Leases by a railroad permitting tenants to place a building on the right of

# MINNESOTA STATUTES 1953 ANNOTATIONS

191

DIVISION OF FORESTRY 88.51

way involve an ordinary contractual matter in which public welfare is not concerned. *Speltz Grain & Coal Co. v Rush*, 236 M 1, 51 NW(2d) 641.

## 88.21 REPORTS BY RAILROAD COMPANIES

A bargain which tends to the violation of law is invalid as against public policy. Where a bargain for exemption from liability by a common carrier does not relate to duties imposed on carrier by law independent of contract, a contract for indemnity against the exempted liability is lawful, and so also is one for exemption from liability. Public policy permits railroads to procure insurance to protect themselves against losses which may be sustained in negligent operation of their business. *Petit Grain Co. v Northern Pacific Ry. Co.*, 227 M 225, 35 NW(2d) 127.

88.23 Renumbered 20.37.

88.24 Renumbered 20.38.

88.25 Renumbered 20.39.

88.26 Renumbered 20.40.

## 88.37 APPEALS FROM ORDERS FOR IMPROVEMENTS

Time allowed for appeals. 35 MLR 640.

## 88.47 AUXILIARY FORESTS, TAXATION

Where an auxiliary forest is created under sections 88.47 to 88.53, amended by Laws 1947, Chapter 467, taxes which have attached prior to the filing of the contract for record cannot be canceled and must be paid. OAG Dec. 26, 1947 (407-H).

Lands in auxiliary forests and the timber thereon are taxed as follows: (1) from and after the filing of the contract, the surface of land is taxed annually at the rate of six cents per acre; (2) mineral or anything of value under the surface is subject to taxation under the applicable laws providing for sub-surface values; (3) prior to the enactment of Laws 1947, Chapter 467, merchantable timber standing or being upon the land at the time it is made into an auxiliary forest was taxed separately from the surface as standing timber and (4) after the passage of Chapter 467 timber cut or removed within one year after June 30, 1947, shall be taxed 40 percent of its full and true value and such severance tax is reduced 2 percent on each following June 30 until it shall become 10 percent, after which it shall remain constant. OAG April 12, 1950 (983-M).

## 88.48 APPLICATION

HISTORY. 1927 c 247 s 3; 1949 c 334 s 1; 1949 c 664 s 1; 1953 c 246 s 1.

## 88.49 CONTRACTS

HISTORY. 1927 c 247 s 4; 1949 c 320 s 1.

The contract must be filed for record before real property becomes entitled to the benefits and subject to the restrictions of sections 88.47 to 88.53 as amended by Laws 1947, Chapter 467. OAG Dec. 26, 1947 (407-H).

## 88.51 AUXILIARY FOREST; TAX RATE, SPECIAL TAXES

HISTORY. 1927 c 247 s 6; 1929 c 245 s 1; 1945 c 269 s 3, 5; 1947 c 467 s 2, 3; 1953 c 246 s 2.

Auxiliary forest lands, upon which a tax of six cents per acre is levied, cannot be legally included as untaxed land within the 40 percent or more of the total land area of any school district to make such school district eligible for state aid. OAG June 29, 1951 (168).

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 88.52 DIVISION OF FORESTRY

192

### 88.52 CUTTING TIMBER; TAXATION

HISTORY. 1927 c 247 s 7; MS 1927 s 4031-66; 1945 c 269 s 4; 1953 c 246 s 3.

This tax is only upon timber which becomes merchantable after the making of the contract and which is severed from the land during the life of the contract. It does not apply to merchantable timber growing on the land at the time the contract was entered into. OAG April 12, 1950 (983-M).

### 88.523 AUXILIARY FOREST CONTRACTS; SUPPLEMENTAL AGREEMENTS

HISTORY. 1953 c 246 s 4.

### 88.53 LAND HELD AS AUXILIARY FOREST, AMOUNT, DISPOSAL AFTER CEASING TO BE AUXILIARY FOREST

Lands in auxiliary forests and the timber thereon are taxed as follows: (1) from and after the filing of the contract, the surface of land is taxed annually at the rate of six cents per acre; (2) mineral or anything of value under the surface is subject to taxation under the applicable laws providing for sub-surface values; (3) prior to the enactment of Laws 1947, Chapter 467, merchantable timber standing or being upon the land at the time it is made into an auxiliary forest was taxed separately from the surface as standing timber and (4) after the passage of Chapter 467 timber cut or removed within one year after June 30, 1947, shall be taxed 40 percent of its full and true value and such severance tax is reduced 2 percent on each following June 30 until it shall become 10 percent, after which it shall remain constant. OAG April 12, 1950 (983-M).

88.54 Renumbered 84A.31.

88.55 Renumbered 84A.32.

88.56 Renumbered 84A.33.

88.57 Renumbered 84A.34.

88.58 Renumbered 84A.35.

88.59 Renumbered 84A.36.

88.60 Renumbered 84A.37.

88.61 Renumbered 84A.38.

88.62 Renumbered 84A.39.

88.64 Repealed, 1949 c 546 s 10.

### 88.641 DEFINITIONS

HISTORY. 1949 c 546 s 1.

### 88.642 DECORATIVE TREES; CUTTING, REMOVAL OF; TRANSPORTATION; PROHIBITIONS; EXCEPTIONS

HISTORY. 1949 c 546 s 2.

### 88.643 CONCENTRATION; POSTING NOTICE; PENALTIES

HISTORY. 1949 c 546 s 3.

# MINNESOTA STATUTES 1953 ANNOTATIONS

193

STATE FORESTS; TREE PLANTING 89.021

## 88.644 PERMIT REQUIRED

HISTORY. 1949 c 546 s 4.

## 88.645 ENFORCEMENT

HISTORY. 1949 c 546 s 5.

## 88.646 RECORD OF TRANSPORTATION PERMITS

HISTORY. 1949 c 546 s 6.

## 88.647 RELATION TO EXISTING LAWS

HISTORY. 1949 c 546 s 7.

## 88.648 FALSE STATEMENT; GROSS MISDEMEANOR; MISDEMEANOR

HISTORY. 1949 c 546 s 8.

## 88.649 PERMITS; FEES

HISTORY. 1949 c 546 s 9.

88.65-88.72 Repealed, 1949 c 546 s 10.

## 88.78 APPEALS

A bargain which tends to the violation of law is invalid as against public policy. Where a bargain for exemption from liability by a common carrier does not relate to duties imposed on carrier by law independent of contract, a contract for indemnity against the exempted liability is lawful, and so also is one for exemption from liability. Public policy permits railroads to procure insurance to protect themselves against losses which may be sustained in negligent operation of their business. *Petit Grain Co. v Northern Pacific Ry. Co.*, 227 M 225, 35 NW(2d) 127.

## 88.79 STATE FOREST SERVICE TO PRIVATE OWNERS

HISTORY. 1947 c 580 s 1.

## CHAPTER 89

### STATE FORESTS; TREE PLANTING

89.02 Repealed, 1943 c 171 s 10.

### STATE FORESTS

#### 89.021 STATE FORESTS ESTABLISHED

HISTORY. 1943 c 171 s 1; 1943 c 305 s 1; 1943 c 550 s 1-3; 1945 c 79 s 1; 1951 c 61 s 1; 1953 c 292 s 1; 1953 c 383 s 1.

Lands formerly controlled by the department of rural credit and now operated by the division of forestry are not a part of the state forests and are subject to sale