

GENERAL STATUTES

OF

MINNESOTA

1913

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CHAPTER 15

RELIEF OF THE POOR

GENERAL PROVISIONS

3067. Support of poor—Liability of relatives—Every poor person who for any reason is unable to earn a livelihood shall be supported by his children, parents, brothers and sisters, grandchildren, or grandparents; and relatives having sufficient ability shall be called on for such support in the order above named: Provided, that a person who becomes a pauper from intemperance or other bad conduct shall not be entitled to support from any relative except parent or child. Every such relative who refuses or fails to support any poor person whom he is bound by law to support, when directed by the board or council of the county, town, city, or village in which such person has a settlement, shall forfeit and pay to such county, town, city, or village, for the use of the poor thereof, fifteen dollars per month, to be recovered in any court having jurisdiction. (1485)

See following section.

32-385, 20+366, 50 Am. Rep. 579; 79-357, 82+666.

3068. Failure to support—Recovery under town system—Whenever any relative chargeable with the support of any poor person fails or neglects, after being directed by any town, city, or village under the town system of poor relief, to furnish to such poor person support, maintenance, burial, and in case of non-resident, expenses of removal any such town, city or village furnishing the same may recover in any court of competent jurisdiction from such relation who is resident of this state, any such sum so furnished by it, whether such poor person is a resident of such town, city or village or not. In the event that said poor person shall have no relative chargeable therewith such town, city or village so expending the same may after like notice recover from any town, city or village within this state, which is charged by law with the support of such poor person, any sum so expended. ('89 c. 170 § 8, amended '05 c. 327 § 1)

1889 c. 170 was repealed by § 9448; the provisions of section 8 being incorporated in the preceding section. So far as the above section differs from that section, it is to be construed, by virtue of section 9398, as amendatory or supplementary.

3069. Liability of county, town, etc.—When any such poor person has none of the relatives named in § 3067, or they are not of sufficient ability, or refuse or fail, to support him, he shall receive such support or relief as the case may require from the county, town, city, or village in which he has a settlement at the time of applying therefor, as hereinafter provided. (1486)

25-259; 29-158, 12+458; 33-351, 23+526.

3070. County and town systems—The system of caring for the poor in counties in which they are chargeable upon the county shall be known as the county system. That in which they are chargeable upon the towns, cities, and villages thereof shall be known as the town system. Every county shall continue under the system in force therein at the time when the Revised Laws take effect, until the same is changed as hereinafter provided. (1487)

53-325, 55+143.

3071. Settlement—Every person, except those hereinafter mentioned, who has resided one year continuously in any county, shall be deemed to have a settlement therein, if it has the county system; if it has the town system, he shall have a settlement in the town, city, or village therein in which he has longest resided within such year. Every person who has resided one year continuously in the state, but not in any one county, shall have a settlement in the county in which he has longest resided within such year, if it has the county system; if it has the town system, his settlement shall be in the town, city, or village therein in which he has longest resided within such year. The time during which a person has been an inmate of a hospital, poorhouse, jail, prison, or other public institution; and each month during which he has re-

ceived relief from the poor fund of any county or municipality, shall be excluded in determining the time of residence hereunder. Every minor not emancipated and settled in his own right shall have the same settlement as the parent with whom he last resided. (1488)

29-240, 13+43; 71-503, 74+282; 78-36, 80+836; 89-91, 93+1052; 101-24, 111+652; 103-41, 114+261.

3072. Removal of poor person—Settlement—When a poor person is removed, as hereinafter provided, from one county, town, city, or village to another, and the authorities thereof deny that he is legally settled therein, they shall make temporary provision for his care. If such removal was from one county to another county, or to any town, city, or village of another, the authorities may present the case to the state board of control; if the removal was from one town, city, or village to another within the same county, they may present the case to the county board. The board shall determine the settlement of such person, and certify its findings, and thereupon he shall become a charge upon the county, town, city, or village in which such settlement is found to be, which shall also pay the cost of caring for such person pending the investigation, and of removing him to the place of his settlement, together with the expenses of such investigation, including the fees and mileage of witnesses, and, in the case of the state board, the expenses of its committees or agents. But such findings of the board shall be without prejudice in any litigation arising by reason thereof. (1489)

3073. Bringing poor person into state—Whoever without legal authority shall send, carry, or remove, or cause to be sent, carried, or removed, any insane, idiotic, or poor person from without the state to any county therein, and there leave him, or cause him to be left, with intent to make such county, or any town, city, or village thereof, chargeable with his support or relief, or who with like intent shall induce any such person so to remove, shall forfeit fifty dollars, to be recovered by the treasurer of such county, town, city, or village, for the support of the poor therein, and shall, moreover, be guilty of a misdemeanor. (1490)

3074. Change of system—Whenever the county board shall so determine, or if one-fourth of the voters of the county shall petition therefor, the question of changing from the system in force therein to either the town or county system shall be submitted to the voters of the county at the next general election. The notices of such election shall state that the question will be voted upon, and provisions for taking such vote shall be made upon the blue ballots furnished therefor, as in the case of other questions. If a majority of the votes cast thereon be in the affirmative, the change shall take effect upon the first Monday of January next thereafter. (1491)

COUNTY SYSTEM

3075. County board, superintendents of poor—Poorhouse—In counties having the county system, the members of the county board shall be superintendents of the poor. The board may establish and maintain a poorhouse for the reception and support of poor persons chargeable on the county, and also, if it shall deem best, a poor farm or workhouse, or both, for the employment of the poor therein. If, in the opinion of the board, the number of poor persons does not warrant the purchase or lease of a poorhouse, it may provide for their support in any other way which it may deem proper. The expense of providing the necessary land and buildings shall be defrayed by a special tax, to be assessed, levied, and collected like other county taxes. (1492)

See 25-259; 95-201, 103+1023.

3076. Member of board not to be interested, etc.—No member of such county board shall be directly or indirectly interested in furnishing supplies for the benefit of poor persons, or in the erection or maintenance of any poorhouse or other place provided for the reception of the poor, and no such member shall be a physician for, or overseer of, the poor. Every person violating this section shall be guilty of a misdemeanor. (1493)

3077. Board to appoint overseer—When a poorhouse is established, the county board shall appoint, for the term of one year, and may at pleasure re-

move, an overseer of the poor, who shall hold office until his successor qualifies, and whose compensation shall be fixed by the board annually. Before entering upon his office, he shall give bond to the county in such sum as the board may direct, to be approved by it, and conditioned for the faithful performance of his duties; and the board may require an additional bond whenever such bond is deemed insufficient. (1494)

3078. Powers and duties of overseer—Such overseer shall have immediate charge and control of all poor persons supported by the county, and of the poorhouse and other places provided for their reception or employment, subject to the supervision of the board, or a committee thereof appointed for that purpose. He shall keep a record of the name, age, residence, condition, and date of reception and discharge of each of the persons received under his charge, and of all deaths and births occurring. He shall keep an account of all moneys and property received and disbursed by him, and shall render and settle the same at least once each year at such time as the board may appoint; and at the expiration of his term of office, and at other times when required, he shall make a report showing the number, names, ages, and condition of all persons who are or have been under his charge during the time covered thereby, the length of time each person has received support, the amounts received in money or otherwise from the produce of the farm or workhouse and from the labor of the inmates, and such other facts and information as the board may require. (1495)

3079. Commitment to poorhouse by board—Discharge—The overseer shall receive poor persons, and furnish them with suitable support, at the place provided for that purpose, upon order of the county board. The board may discharge any such person when satisfied that he is not legally chargeable upon the county. When any inmate shall have left or been discharged from the poorhouse, the overseer shall report the fact in writing to the board at its next meeting. (1496)

3080. Commitment by member—When application for relief or support is made to a member of the county board by or for any poor person in his district, if satisfied that he is in actual need, is a proper subject for public relief or support, and is legally settled in the county, or has no legal settlement in the state, he shall make and sign an order directing the overseer to receive such person, and to furnish him with suitable support. Such order shall contain or be accompanied by a statement of such person's name, age, condition, former occupation, place of residence, and length of residence in the county. Upon delivery to him of such order, the overseer shall receive such person, and provide him with support until the further order of the board. The member making such order shall report the facts in writing to the board at its next session. (1497)

25-259.

3081. Temporary relief—If upon inquiry such member be of the opinion that only temporary and limited assistance will be required by such person, or any member of his family, and that it will be for the best interest of the county to grant the same, instead of making the order aforesaid, he may allow such person or any member of a family relief to the amount that he may deem expedient, subject to the following conditions:

(1) No money shall be paid to any poor person under this section except that when transportation is furnished, a small sum may be given to such person to buy food.

(2) Relief shall not be granted to any one person or any one member of a family in a sum exceeding thirty-five dollars in one calendar year, except that in cases extended relief is asked before July 1st and approved by the commissioner, the board may, by resolution, authorize him to increase the relief to the amount of \$75.00 and, by resolution unanimously adopted, authorize him to increase the relief to the amount of two hundred dollars, or so much thereof as may be necessary.

When relief is given under this section, an itemized and verified bill of goods furnished or services rendered, accompanied by an acknowledgment of the same from the person receiving them, must be presented to such mem-

ber. Upon his approval thereof, he shall direct the auditor in writing to issue his warrant for the amount specified to be paid out of the fund for the support and relief of the poor. A blank form for such bill, acknowledgment, approval and order shall be provided by the auditor and used in all such cases. (R. L. § 1498, amended '07 c. 360; '09 c. 290 § 1)

25-259.

3082. Conveyance of poor persons—When an order is made directing an overseer to receive any poor person who is unable to travel without conveyance at public expense, the board or member making the same may, in writing, direct the sheriff or any near-by constable to convey him to the place provided; and such officer shall receive from the county reasonable compensation therefor. (1499)

3083. Settlement in another county—When application for support or relief is made by a person whose settlement is in another county, or in a town, city, or village of another county, the board applied to, or its chairman, shall warn him to depart from its county; and if he is unable or refuses to do so within a reasonable time, and is likely to become a public charge, the chairman may issue an order, under his hand and the seal of the board, to the sheriff or any constable of the county, requiring him to convey such person to the place of his settlement. If he be so sick, infirm, or otherwise disabled as to render it unsafe or inhuman to remove him, and is in immediate need of support or relief, provision therefor shall be made in the manner prescribed in §§ 3080-3082. All proper expenses incurred by such county in making such removal, or in furnishing such support or relief, shall be paid by it, and shall be a legal claim in its favor against the county, town, city, or village in which such person has a settlement. (1500)

29-240, 13+43; 45-465, 48+23, 11 L. R. A. 667.

3084. Board to appoint physician—The board shall appoint one or more practicing physicians to be physicians of the poor who shall hold office during the pleasure of the board, and receive such compensation as it may from time to time determine. If more than one be appointed, the order of appointment shall prescribe the district in which each shall act, and none shall be required to act outside of his district except in case of urgency. When directed by a member of the board or by the overseer, such physician shall attend upon and prescribe for any sick poor person in charge of the overseer, and also on written direction of a member of the board shall attend upon and prescribe for any sick person who is entitled to receive support or relief from the county. If immediate treatment of any person who has been declared a county charge be required, any licensed physician who may prescribe for or treat him before the arrival of the county physician shall be paid therefor. He shall at once notify the county physician, who shall thereupon take charge of the case. Within thirty days thereafter, he shall file with the auditor a verified report, showing the name and residence of the patient, the day and hour when called, the distance traveled in going to such place, the nature of the disease or injury, the service performed, the time when the county physician was notified and took charge, and the amount claimed as compensation. The auditor shall present such report at the next meeting of the board, which shall allow reasonable compensation. (1501)

25-259; 95-201, 103+1023.

3085. Minors, how provided for—When a minor becomes chargeable upon any county, the county board shall secure his admission to the state public school, or provide a home for him with some respectable householder, if one can be found who will take him. (1502)

3086. Burial at expense of county—When a person dies in any county, not leaving sufficient means to defray the necessary expenses of his burial, nor any relatives therein of sufficient ability to procure his burial, the county board shall cause a decent burial of his remains to be made at the expense of the county. (1503)

3087. Tax for support of poor—The county board shall levy a tax annual sufficient to defray the estimated expenses of supporting and relieving the

poor therein during the succeeding year, and to make up any deficiency in the fund raised for that purpose during the preceding year. (1504)

3088. District poorhouse—Board of directors—The county boards of two or more counties, having a joint population of not less than ten thousand, by concurrent resolutions may unite as a district, and establish therein a district poorhouse, which shall be deemed the poorhouse of the several counties. The management of such poorhouse shall be vested in a board of directors, consisting of the chairmen of the several county boards, if the district comprise more than two counties; if it comprise two counties only, such board shall be composed of the chairmen of the two county boards, one other member of each board to be chosen annually, and a fifth chosen by the other four. Such board shall be a body corporate, with power to sue and be sued, and to purchase, hold, and convey real and personal property. It shall meet at the district poorhouse on the fourth Tuesdays of January and July in each year for the transaction of such business as may be brought before it, and may hold extra sessions as it may deem necessary. An extra session may be called by a majority of the board, and the secretary shall give at least ten days' notice thereof to the members. At its first meeting, and each year thereafter at its January meeting, the board shall elect from its number a chairman, secretary, and treasurer. The chairman shall preside at all meetings, and sign all documents requiring its signature. The secretary shall prepare and present to the county boards bills for all amounts due from the respective counties for the support of poor persons, which shall be allowed and paid as other like bills. The district overseer of the poor shall be assistant secretary. The directors shall receive three dollars per day for their attendance upon meetings, and ten cents per mile for travel; but no director shall be paid for more than twenty days' attendance, or mileage for more than five meetings in one year. (1505)

3089. Location and erection of poorhouse—Upon the establishment of such district, the directors, by resolution, shall set a time and place for a meeting to receive and consider offers from any county, town, city, village, or person in the district for the sale of land therein for a poorhouse. At such meeting, or any adjournment thereof, the board may purchase such land upon terms which it may deem most advantageous, and may contract for or procure the erection of such poorhouse and other buildings thereon, and the necessary equipment and supplies therefor. The board, in its discretion, may provide for the employment therein of such poor persons as may be able to labor; but no such buildings shall be erected until the plans, specifications, and location thereof are approved by the state board of control. (1506)

3090. Expense of poorhouse, how apportioned—The expense of providing such land, buildings, equipments, and supplies shall be assessed pro rata upon the several counties according to the assessed valuation of the taxable property therein for the preceding year. The board shall fix a weekly rate for each inmate, to be paid by the county from which he comes; and if, at the end of any fiscal year, it appears that such rate was insufficient to pay all expenses of maintaining such poorhouse, the board shall levy upon each county, to meet such deficit, an amount determined by the proportion which the number of days' board furnished to inmates from each county bears to the total number furnished to all poor persons kept therein. The secretary shall certify to the several auditors all amounts assessed upon the counties under this section. (1507)

3091. Overseer of poor—The board shall appoint an overseer of poor of the district, who shall hold office for six years, and until his successor qualifies, unless sooner removed by the board for cause. He shall give bond as provided in the case of a county overseer, except that such bond shall be approved by the board, and made payable to its treasurer. He shall have charge of all poor persons maintained at the district poorhouse, subject to the supervision and written direction of the board, or a committee thereof appointed for that purpose. He shall keep records and accounts, and shall settle his accounts with, and make reports to, the board as provided in the

case of a county overseer; stating also in his reports the county to which each poor person is chargeable. He shall also render to the state board of control such reports as are required from county overseers of the poor. (1508)

3092. Salaries of members of board of control and almshouse and hospital physician—The salary of each member of the board of control of any county in this state shall be \$600 per annum; and each such board is authorized to fix the salary of the almshouse and hospital physician appointed by it at such sum not exceeding \$5,000 per annum, as the board may deem proper. The salaries named herein shall be payable monthly out of the funds appropriated on account of salaries, or otherwise, for the maintenance of the board. ('05 c. 79 § 1)

3093. Board of control may purchase land for poor farm—The board of control of any county of this state may purchase land for its poor farm to be operated in connection with its almshouse. Said land shall be paid for in the same manner as other purchases of said board of control are paid for, and the title to said land shall be taken and held in the same manner as the title of other lands of said board of control is now held: provided that the land so purchased for said poor farm together with land heretofore purchased and now owned by said board of control shall not exceed in area 320 acres, and provided; that no such land shall be purchased without the approval of the city council of the city and the board of county commissioners of the county, wherein said board of control exists. ('11 c. 218 § 1)

Section 2 ratifies prior purchases.

Section 3 repeals inconsistent acts, etc.

TOWN SYSTEM

3094. Town board and councils to be superintendents—Relief—In counties having the town system, the town boards and city and village councils shall be superintendents of the poor. All applications for aid shall be made to such boards or councils, which shall grant such relief as they deem necessary, by paying for the board and care of the applicants, providing transportation to their homes, paying rent, furnishing provisions, clothing, fuel, and medical attendance, and burying the dead. They shall pay no cash to any poor person, and shall allow no bill for goods furnished or services rendered to him, unless a member of such board or council shall certify in writing that the account is correct and just; that the goods or services were necessary for his relief, were actually delivered or rendered, and were of good quality; and that the prices charged are reasonable. Every such bill shall specify the name of the person for whom the goods or services were furnished or rendered, and the amount charged for each person. (1509)

57-145, 53+871; 71-503, 74+282; 74-515, 77+290, 430; 95-201, 103+1023.

3095. Member not to be interested, etc.—No member of any such board or council shall be directly or indirectly interested in furnishing supplies for the benefit of poor persons, or the erection or maintenance of any poorhouse or other place provided for the reception of the poor, and no such member shall be a physician for, or overseer of, the poor. Every person violating this section shall be guilty of a misdemeanor. (1510)

3096. Powers and duties of supervisors and councils—Each board and council shall have the following powers and duties:

1. It may appoint a practicing physician to be physician of the poor, who shall hold office during its pleasure, and receive such compensation as it may from time to time determine. When directed by a member of the board or council, such physician shall attend upon and prescribe for any sick poor person entitled to support or relief from the town, city, or village.

2. When application for relief is made by a person who has a settlement in some other county, town, city, or village, its chairman or president shall warn him to depart; and, if he is unable or refuses to do so within a reasonable time, and is likely to become a public charge, such chairman or president may, in writing, require any constable or marshal of the town, city, or village to convey him to the place of his settlement. If such person is so

sick or infirm as to render it unsafe or inhuman to remove him, and is in immediate need of support or relief, the board or council shall provide such assistance as it deems necessary, and, if he die, shall give him decent burial. The expense so incurred shall be paid by the town, city, or village, and shall thereupon become a charge against the county. Upon payment thereof, the county may recover the same from the county, town, city, or village of such person's settlement. Within five days after any such person becomes a public charge, the board or council shall notify the county auditor, and thereupon the county board may take him in charge, or relieve him in such manner as it may see fit.

3. When any minor becomes chargeable upon any town, city, or village for support, the board or council, or a member thereof, shall apply to the county board to secure his admission to the state public school, or secure him a home with some respectable householder, if one can be found who will take him. (1511)

Notice not condition precedent (101-11, 111+651).

3097. Poorhouse—The county board of any county having the town system may establish, maintain, and govern a county poorhouse in the same manner as in other counties. The cost thereof shall be paid by the county; but at its July meeting in each year the county board shall fix a weekly rate for each inmate, to be paid to the county by the town, city, or village from which he comes. The chairman of the town board or the president of the council may sign commitments to such poorhouse, and designate some officer of his municipality to convey any poor person thereto; the expense thereof to be paid from the town, city, or village poor fund. The overseer of such poorhouse may discharge any inmate who, in his judgment, is capable of self-support, or who is ordered discharged by the officer by whom he was committed; and, when necessary, he may furnish transportation to a discharged inmate, at the expense of the county, to the place from which he came. (1512)

3098. Taxes, how levied—In counties having the town system, the voters of each town at their annual meeting, and the council of each city and village annually, shall levy upon the property taxable therein a tax in such amount as shall seem necessary for the support and relief of the poor. Such tax shall not be less than one mill upon each dollar of the assessed valuation, unless there be in the poor fund at least fifty dollars above the amount of orders outstanding. The clerk shall certify to the county auditor such levy, or the fact that no tax is necessary. If a tax be levied, the auditor shall calculate the rate, and extend the same; and, if no certificate be made, he shall levy and extend a tax of one mill on the dollar upon the property taxable in the town, city, or village in default. The proceeds of each tax shall be paid to the treasurers of the towns, cities, and villages. (1513)

3099. Allowance to towns on change from county system—The county board of any county which has changed from the county system to the town system may appropriate out of the poor fund such sum as it may deem advisable to reimburse any town, city, or village in its county for money expended or indebtedness incurred for the care of the poor therein, if it shall have expended or incurred an indebtedness of not less than three hundred dollars for that purpose within the year preceding its application for such allowance. (1514)

3100. Change from county system—Payment from county fund—That whenever the system for relief of the poor in any county is changed from the county system to the town system and there has been levied or assessed for the year in which such change occurs, a tax for the poor fund of such county under such county system, 80 per cent of the moneys received by such county for such tax shall be paid over to the treasurers of the various towns, villages and cities of such county in the manner hereinafter provided. ('07 c. 37 § 1)

3101. Same—Duty of county auditor—That on the 20th day of March, and the 20th day of June and the 20th day of November in such year, the auditor of such county shall compute the amount of taxes collected for such

poor fund from the taxpayers of each town, village or city in such county and which then remains in the treasury of such county, and shall draw his warrant in favor of the treasurer of each of such towns, villages and cities for 80 per cent of the amount received from such town, village or city, and the same shall be forthwith paid by the treasurer of such county. ('07 c. 37 § 2)

3102. **Same—Poor fund of towns, etc.**—The moneys so paid to the treasurers of such towns, villages and cities shall constitute the poor fund for such towns, villages and cities for the year in which such change is made. ('07 c. 37 § 3)

3103. **Change from county system—Payment from county fund**—That whenever the system for relief of the poor in any county is changed from the county system to the town system and there remains in the county poor fund a surplus which has been levied or assessed as a tax for the poor fund of such county under such county system for the years prior to the year in which such change occurred and which then remains in the treasury of such county, the auditor of such county shall compute the amount of taxes collected for such poor fund from the tax payers of each town, village or city in such county and shall draw a warrant for the pro rata amount received from such town, village or city, and the same shall be forthwith paid by the treasurer of such county to the treasurers of the respective towns, villages or cities of said county. ('13 c. 39 § 1)

3104. **Same—Duty of auditor—Poor fund**—The money so paid to the treasurers of such towns, villages or cities shall become a part of the poor fund of such town, village and city and shall be used for no other purpose. ('13 c. 39 § 2)

COUNTIES EXCEEDING 75,000

3105. **Board of poor commissioners, how constituted**—In counties having a population of over 75,000, and an area of over 5,000 square miles there shall be a board of three poor commissioners appointed by the chairman of the board of county commissioners of such county, with the approval of the judges of the district court of the judicial district in which such county is located. The terms of the members of the first board shall expire, respectively, on the first Monday of January, in the first, second and third years after their appointment. Upon the expiration of such terms, their successors shall be appointed in like manner for terms of three years; and vacancies shall be filled by like appointment for the unexpired terms. Upon the appointment of the first board, and annually thereafter on the first Monday in January, the board shall elect from its number a president and a vice president, to serve for one year, and until their successors qualify. It shall make rules for the government of its proceedings, and fixing the times for holding its meetings, and may amend the same at any time. The members shall receive no compensation for their services, but each shall be repaid out of the county poor fund his necessary expenses, a verified and itemized statement of which shall be filed with and approved by the board. It shall be provided with a suitable office, the expenses whereof shall be paid out of the county poor fund. ('07 c. 222 § 1)

Historical—Section 5 repeals inconsistent acts, etc.

R. L. § 1515 provided for the appointment of such board, and for their removal, by the judges of the district court. In other respects the section above set forth is identical with said section; and sections 2, 3, and 4 are identical with R. L. §§ 1516, 1517, 1518, all of which are superseded.

3106. **Powers and duties of board**—Such board shall have all the powers and duties relative to the care of the poor which in counties having the county system appertain to the county board. All moneys arising from the labor of poor persons in its care, or from the produce of the poor farm, shall be paid to the board and by it paid into the county treasury, to the credit of the poor fund. No money shall be paid from such fund, except on vouchers of the board, signed by its president or vice president, and countersigned by its clerk. On the first Monday of January, April, July and October in each year, the board shall file with the county auditor an itemized statement of

its receipts and expenditures for the preceding three months. ('07 c. 222 § 2)

3107. Clerk—Such board shall appoint a clerk to serve during its pleasure, and fix his compensation, which shall not exceed one hundred and twenty-five dollars per month, and shall be paid out of the county poor fund. He shall keep a record of all the doings of the board; preserve in its office all documents relating to its business; keep an account of all its receipts and expenditures, and the name and address of each person to whom relief has been granted, with the amount and date thereof. He shall investigate the condition and needs of all persons by or for whom application is made for relief, and report to the board thereon. The board may authorize him to grant temporary relief in cases of emergency, but it shall by resolution limit the amount of relief to be so granted without previous action by the board. The board may employ such other assistance as may be necessary to discharge its duties. ('07 c. 222 § 3)

3108. Taxes, how levied—On or before October 1, in each year, such board shall determine by resolution the amount of tax to be levied for the ensuing year for the support of the poor, the maintenance of the poorhouse and other places provided for the reception of the poor, and the erection of any buildings or improvements, and the adoption of such resolution shall constitute a levy on the property taxable in the county of the amount named therein; but the amount so levied for all purposes, except for the erection or repair of buildings, shall not exceed an amount equal to six-tenths of one mill on each dollar of assessed valuation. On or before October 5, thereafter, the board shall file a certified copy of such resolution with the county auditor, who shall enter the amount upon the tax lists. Such tax, when collected, shall be credited to the county poor fund. ('07 c. 222 § 4)

CHAPTER 16

INTOXICATING LIQUORS

LICENSES

3109. Sale forbidden—Any person who shall sell any intoxicating liquors in quantities less than five gallons, or in any quantity to be drunk upon the premises, except as hereinafter provided, is guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars, and the costs of prosecution, and by imprisonment in the county jail for not less than thirty days. (1519)

1. Crime of selling without a license—The sale and want of a license constitute the crime (27-318, 7+359). It is no defence that the accused was entitled to a license, if one had not been issued and delivered to him (36-234, 30+764; 86-441, 90+1052); that a license could not be obtained for sales at the place where the sale charged was made (33-69, 21+856); that the county commissioners refused to issue any licenses (23-140); that the town had voted against license or that the accused had paid a federal tax on retail liquor dealers (27-318, 7+359); or that the accused honestly believed that the liquor sold was not intoxicating (89-502, 95+449). An indictment will lie under this section where a municipality has voted against license (69-423, 72+700; 70-462, 73+403; 85-112, 88+416).

2. Nature of license—A license is a mere privilege to pursue a business subject to police regulation and control (50-128, 52+387).

3. When license becomes operative—A license does not become operative until delivered to the licensee (36-234, 30+764; 60-510, 62+1135; 86-441, 90+1052). It cannot be given retroactive effect by antedating (60-510, 62+1135; 72-17, 74+901).

4. Granting license discretionary—Mandamus—Whether a license shall be granted or refused is a matter of discretion which cannot be controlled by mandamus (60-510, 62+1135; 94-81, 101+1063; see 86-441, 90+1052).

5. Who required to be licensed—All persons regardless of the nature of their business, except licensed pharmacists (§ 3112), are required to take out a license for sales of a less quantity than five gallons. It is immaterial that such sales are in the original package or in corked bottles or the liquor is not to be drunk on the premises (41-30, 42+547; 41-33, 42+548; 43-231, 45+149; 45-44, 47+308). Manufacturers, wholesalers or others are not required to obtain a license for the sale of liquor in quantities of five gallons or more (38-150, 36+103; 96-110, 104+709, 113 Am. St. Rep. 612). But they are prohibited from selling