

1934 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1934)  
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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**5325. Refusal to obey directions of examiner.**

One is not excused by the absence of guilty knowledge or intention and his consequent moral innocence. 178M9, 225NW927.

This section applies whether the duty violated was imposed by the action of 1909 or by a prior statute. 179 M217, 228NW926.

The offense consists in knowingly and intentionally or negligently failing to report, and it is error to reject evidence tending to show good faith and lack of knowledge that the report was false. 179M217, 228NW926.

Offense, held committed in Isanti County though report was sent by mail to Commissioner in Ramsey County. 179M217, 228NW926.

Rulings on evidence considered. 179M217, 228NW926.

**5328. State bank examiners or employees prohibited from holding bank stock.**—No person who is a bank examiner or other officer or employee of the division of banking of the department of commerce of this state shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such a corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner or other officer or employee shall be so interested, it shall be conclusive-

ly presumed that said bank examiner or other officer or employee is indirectly interested in the corporation within the meaning of this act; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provision of this section shall not apply to the Commissioner of Banks. (15, c. 164, §1; Mar. 7, 1931, c. 43, §1.)

**5328-1. Penalty for violation.**—Any person violating the provisions of this act shall be disqualified from holding any office or employment in the division of banking of the department of commerce, and shall be removed from such office or employment by the commissioner of banks immediately upon knowledge of such violation. (Act Mar. 7, 1931, c. 43, §2.)

**5332-1. Examiners powers enlarged.**—The examiner in charge of liquidation in the banking division of the department of commerce is hereby authorized to sign the name of the commissioner of banks and to act for him in all matters connected with the liquidation of insolvent corporations under the supervision and control of the commissioner of banks, with the same force and effect as though the commissioner himself had signed or acted. Provided, that said examiner shall have no authority to order an assessment against the stockholders of an insolvent state bank or trust company under the provisions of Laws 1927, Chapter 254 [§§7699-20 to 7699-247]. (Act Apr. 9, 1931, c. 137.)

CHAPTER 29

Public Health

**5339. General duties of board—Reports.**

Op. Atty. Gen., June 28, 1933; note under §5345.

**5345. State board of health, general and special rules.**

Op. Atty. Gen., June 20, 1933; note under §9580.

Resolution by state board of health that plans and specifications must be prepared by person not prohibited from doing so under Laws 1933, c. 404, is not bound to act according to such resolution, it being merely a declaration of policy. Op. Atty. Gen., June 28, 1933.

**5348. Local boards—Health officers.**

Member of town board may receive compensation as health officer as well as member of board. Op. Atty. Gen., Feb. 7, 1929.

Town board cannot appoint as health officer one who is not a duly licensed physician. Op. Atty. Gen., Apr. 16, 1931.

Action of voters at town meeting in attempting to elect a health officer is nugatory. Op. Atty. Gen., Apr. 16, 1931.

Village is not compelled to establish its own board of health, but where it does establish one, village is liable for costs and expenses lawfully incurred under its direction. Op. Atty. Gen., Apr. 28, 1932.

Where village has no board of health, it is, nevertheless, liable for costs and expenses lawfully incurred under direction of town board in connection with public health affairs. Op. Atty. Gen., Apr. 28, 1932.

A town chairman appointed health officer pursuant to this section is entitled to compensation in addition to his compensation as a board member. Op. Atty. Gen., Apr. 6, 1933.

**5349. Duties of local boards of health—Penalties.**

City health department has right to subject school children exposed to tuberculosis to reasonable tests. Op. Atty. Gen., June 15, 1933.

**5351. Powers of health officer in assuming jurisdiction over communicable diseases.**

Op. Atty. Gen., Apr. 28, 1932; note under §5348.

Whether removal of tonsils of diphtheria carrier would be control measure for benefit of public, is question of fact. Op. Atty. Gen., June 11, 1932.

There are three classes of measures employed in controlling communicable diseases, quarantine, other control measures such as vaccination, etc., and measures looking only to comfort and treatment of particular individual suffering from disease, first is purely public measure, expenses of which are paid by local health districts, one-half to be claimed against county, and same is true as to second class, if individuals cannot pay, but there is no public liability as to third class except by way of poor relief. Op. Atty. Gen., June 11, 1932.

Local board of health on advice of state board of health has power to seize a person afflicted with tuberculosis and carry him off to public hospital. Op. Atty. Gen., May 10, 1933.

Whether tuberculosis of knee is a communicable disease is question of fact to be determined by medical experts. Op. Atty. Gen., Sept. 26, 1933.

**5352. Allowance and payment of expenses, etc.**

Op. Atty. Gen., Apr. 28, 1932; note under §5348.

Op. Atty. Gen., June 11, 1932; note under §5351.

Person who has communicable disease should pay expenses of care, but if it is impossible to secure payment from him, local health district must assume expense and may recover one half from county. Op. Atty. Gen., July 31, 1933.

**5353. Appeal from disallowance—costs.**

Op. Atty. Gen., June 11, 1932; note under §5351.

**5353-2. Same—Expenses.**

If the county purchases an automobile, gasoline and repairs, the limitations of Laws 1931, c. 331, have no application but such act does apply if county nurse furnishes her own automobile and bills the county for reimbursements. Op. Atty. Gen., May 23, 1931.

**5353-3. Same—Must be registered nurses.**

Nurses employed by municipalities must be registered pursuant to statute. Op. Atty. Gen., Aug. 10, 1932.

**5356. Birth certificates—Form and contents.**

Manner of correcting birth certificates, discussed. Op. Atty. Gen., Aug. 11, 1931.

**5356-1. School nurses, etc., shall keep health records of children.**—It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher and of the persons charged with the duty of compiling and keeping the school census records to cause a permanent public health record to be kept for every child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state and transferred to the board of health when the child ceases to attend school. It shall contain a record of such health matters as shall be prescribed by the board of health, and of all mental and physical defects and handicaps, which might permanently cripple or handicap the child. Nothing in this act shall be construed to require any child whose parent or guardian objects in writing thereto to undergo a

physical or medical examination or treatment. A copy shall be forwarded to the proper department of any state to which the child shall remove. (Act Apr. 20, 1929, c. 277, §1.)

**5356-2. To furnish copies of records to juvenile court.**—Whenever any child shall be brought into juvenile court, the court shall request and the custodian of the record shall furnish a complete certified copy of such record to the court, which copy shall be received as evidence in the case; and no decision or disposition of the pending matter shall be finally made until such record, if existing, shall be considered. (Act Apr. 20, 1929, c. 277, §2.)

**5356-3. Commissioner of Education to report to Children's Bureau.**—It shall be the duty of the state commissioner of education to cause a report to be made periodically to the children's bureau of the state of all diseases and defects that are of a continuous nature or that might result in a permanent handicap to the child, which have not been heretofore reported. He shall also furnish to the state board of health such information from the records as that board shall desire. (Act Apr. 20, 1929, c. 277, §3.)

**5356-4. False statements to be cause for discharge.**—Any intentionally false statement in such certificate and any act or omission of a superintendent or superior officer to connive at or permit the same shall be deemed good cause for summary discharge of the person at fault regardless of any contract. (Act Apr. 20, 1929, c. 277, §4.)

**5357. Death certificates.**

176M360, 223NW677; note under §5366.

The medical certificate of death is not admissible in litigation between private parties, to prove the "indications" or inferences of murder, suicide, or accident, drawn by the certificate maker from the "means and circumstances" of a violent death. Backstrom v. N., 183M384, 236NW708. See Dun. Dig. 3347(62), 3348(67).

Medical expert may properly give reasons for opinion expressed as to cause of death. Milliren v. F., 185M614, 242NW290. See Dun. Dig. 3327.

In action on accident policy, death certificate made by attending physician and filed was not conclusive, but could be contradicted, and when shown to be hearsay would have no probative value. Milliren v. F., 185M614, 242NW290. See Dun. Dig. 3348, 3349.

**5365. Fees of local registrars—Tabulation, etc.**

Clerk of court whose salary is fixed by Laws 1909, c. 335, as amended by Laws 1913, c. 511, and by Laws 1919, c. 229, is not entitled to extra compensation for indexing and keeping vital statistic records. Op. Atty. Gen., Mar. 24, 1933.

**D.**

Legitimation by marriage of parents of child born illegitimate may be shown by ordinary affidavit. Op. Attv. Gen., Aug. 11, 1931.

**5366. Certified copies of record of evidence.**

Milliren v. F., 185M614, 242NW290; note under §5357.

The medical certificate of death provided for by statutes is admissible in evidence to prove, prima facie, the immediate cause as well as the fact of death. 176M360, 223NW677.

The medical certificate of death is not admissible in litigation between private parties, to prove the "indications" or inferences of murder, suicide, or accident, drawn by the certificate maker from the "means and circumstances" of a violent death. Backstrom v. N., 183M384, 236NW708. See Dun. Dig. 3347(62), 3348(67).

**5377. Other remedies preserved.**

Where a municipality casts sewage upon private property and creates and maintains a nuisance thereon, the owner or lawful occupant may recover damages. 177M547, 225NW898.

**5379. Nuisance, source of filth, etc.**

In an action to recover damages for the loss of a building destroyed after an effort by city authorities to condemn it under a city ordinance, held that the evidence was insufficient to establish that the order of condemnation was posted on the building, as provided by the ordinance, and the court properly directed a verdict for plaintiffs, leaving the amount thereof to the jury. Cates et al. v. R., 182M494, 234NW681. See Dun. Dig. 6809(78).

**5383. Removal of public sanatorium or hospital.**

Op. Atty. Gen., May 10, 1933; note under §5351.

**5384. Teachers, pupils, etc.—Certificate.**

Finding that school district was negligent in exposing school teacher to tuberculosis, sustained by evidence,

but there was not sufficient evidence to show that it maintained a nuisance by its failure to make the school building sanitary, and it was not liable for damages under §3098. 177M454, 225NW449.

**5385. Infected premises—Disinfecting.**

177M454, 225NW449; note under §5384.

**5390. Proclamation—Publication.**—If on such investigation any such officer finds and determines that rabies does exist in any town, city or village, he shall forthwith and thereupon make and file, as hereinbefore provided, a proclamation, setting forth the fact of such investigation and determination, and also in and by said proclamation prohibit the owner or custodian of any dog from permitting or allowing such dog to be at large within such town, city or village, designating it, unless such dog shall be so effectually muzzled that it cannot bite any other animal or any person.

Whenever the secretary and executive officer of the State Live Stock Sanitary Board, after investigation, has determined that rabies exists in any territory in the State of Minnesota he shall issue similar proclamations in all towns, villages and cities within such territory or area which in his judgment it is necessary to control the outbreak and prevent the spread of such disease, and such proclamation when filed as hereinafter provided, shall prohibit the owner or custodian of any dog within the designated territory, from permitting or allowing such dog to be at large within such territory unless such dog shall be so effectively muzzled that it cannot bite any other animal or any person.

It shall be the duty of all local peace officers and all health officers to enforce the provisions of this act and any person violating any of its provisions shall be guilty of a misdemeanor.

Such proclamation, when issued by the executive officer of a town or village board of health, shall be filed with the town or village clerk, respectively; when issued by the chief health officer of a city, it shall be filed with the city clerk; when issued by the state official hereinbefore named, it shall be filed with the clerk of each town, village and city within the territory specified therein.

It shall be the duty of each officer with whom such proclamation is filed as aforesaid, to forthwith publish a copy thereof in one issue, at the expense of his municipality, in a legal newspaper published in the town, village or city of which he is clerk, if such a newspaper is published therein, and if there be no newspaper published therein, then, to post a copy of such proclamation in three public places therein.

Proof of publication shall be made by affidavit of the publisher in the one case, and of posting, in the other, by the person posting the same, which affidavit shall be filed with the proclamation. Such proclamation shall be deemed effective and in full force five days after the publication or posting of copies thereof, as hereinbefore provided for, and shall remain in full force and effect for a period of time therein designated not exceeding six months, as shall be determined by the officer making such proclamation. (G. S. '13, §4685; '13, c. 541, §2; Feb. 20, 1929, c. 34.)

**GARBAGE REMOVAL**

**5394-1. Unlawful to transport garbage without permit.**—It shall be unlawful for any person to transport garbage, offal, ashes, or other rubbish over any public highway, including trunk highways, without first obtaining a permit so to do from the governing body of each town, city, or village through which such transportation may take place. A separate permit shall be issued for each vehicle used in such transportation, and shall state the period of time, not exceeding one year, that the permit shall be in effect,

and the place to which and the roads over which such garbage, offal, ashes, or other rubbish may be transported. The governing body of such town, city or village, may revoke any permit at any time. The driver or operator of each such vehicle shall carry such permit on his person or attached to such vehicle at all times while transporting such material. The provisions hereof shall not apply to the transportation of any of the materials herein mentioned over roads within the limits of the town, city or village in which such garbage, offal, ashes or other rubbish originates. (Act Mar. 19, 1931, c. 77, §1.)

**5394-2. Violation a misdemeanor.**—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Mar. 19, 1931, c. 77, §2.)

**5394-3. Definitions.**—The word "person" as used herein shall include individuals, copartnerships, or corporations, and shall include persons hauling under contract or agreement with any municipal corporation or board or commission thereof, and any employe of such contractor, or of such municipality, board or commission. (Act Mar. 19, 1931, c. 77, §3.)

**5394-4. Application.**—This act applies only in all counties of this state having a population of over 500,000 inhabitants. (Act Mar. 19, 1931, c. 77, §4.)

CHAPTER 30

Live Stock Sanitation

**5402. Diseased horses and cattle to be killed—Rate of compensation to owner.**—Whenever the State Live Stock Sanitary Board (hereinafter called the board) shall decide upon the killing of an animal affected with the disease of tuberculosis, paratuberculosis, or glanders, it shall notify the owner or keeper thereof of such decision and when in the judgment of the board, such animal may be ordered transported for immediate slaughter by said board, through its executive officer to any abattoir where the United States Bureau of Animal Industry maintains inspection or where the United States Bureau of Animal Industry or the board may establish field post mortem inspection, and said board shall pay all reasonable transportation and other charges connected with the transportation and slaughter of such animal.

Before the animal is removed from the premises of the owner, the representative or authorized agent of the board shall agree in writing with the owner as to the value of such animal; in the absence of such agreement, there shall be appointed three (3) competent disinterested men, one appointed by the board, one by the owner, and a third by the first two, to appraise such animal at its cash value, taking into consideration the condition of the animal as to the disease and its present and probable effect on the animal; provided, however, that the appraisal of steers shall be limited to the actual market beef value of the animal at the time of the appraisal.

Such appraisal shall in no case exceed \$100 for a cow and \$125 for a horse, except in the case of pure bred cattle and horses where the pedigree shall be proved by certificates of registration from the herd books where registered, and in that case the maximum appraisal shall not exceed \$200.

The appraisements made under this act shall be in writing and signed by the appraisers and certified by the board, to the auditor of the state, who shall draw a warrant on the state treasurer for the amount due the owner. ('03, c. 352, §13; '05, c. 115; '09, c. 401; G. S. '13, §4696; '13, c. 148, §1; '15, c. 114, §1; '21, c. 485, §1; '25, c. 230, §1; Feb. 20, 1929, c. 35, §1.)

**5403. Same—Inspection before killing—Appraisal and payment for animals killed—Foot and mouth disease.**—(a) Notwithstanding any provision of this chapter to the contrary, neither cattle affected with tuberculosis, paratuberculosis, nor glandered horses shall be killed as such until they have been inspected by a veterinarian appointed by the board, and are pronounced by him to be so diseased.

For each animal slaughtered because of tuberculosis, paratuberculosis, or glanders, the value of the net salvage of the carcass shall be deducted from the appraised value of the living animal; two-thirds of the remainder shall be paid to the owner by the state, but the amount paid by the state shall in no case exceed the sum of \$50 for a grade bull, steer or cow, or the sum of \$100 for a pure bred bull or cow. In all cases where the Federal Bureau of Animal Industry compensates the owner for such animal, in whole or

in part, the amount of such compensation so received from the Federal Government shall be deducted from the amount of indemnity which would be otherwise payable by the state. (As amended Feb. 20, 1929, c. 35, §2.)

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(b) The owner \* \* \*

1. [Repealed].

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Laws 1929, c. 35, §2, amends subd. (a) of this section. Section 3 of the same act repeals subdivision 1 of paragraph (b).

**5408. Live stock detectives.**—Any person duly commissioned by a governor, or the Livestock Commission, or any other proper authority of another state to act as a live stock detective may exercise his powers as such in this state, consistently with the laws thereof, upon paying a fee of five dollars and filing with the secretary of state:

1. His commission, or a certified copy thereof.

2. A bond to the state in the penal sum of two thousand dollars, approved by the secretary, and conditioned for the payment of all damages resulting to any person from any wrongful seizure of property within the state, or other unlawful act done therein by him or by any of his deputies.

3. A stipulation that service upon such secretary of any summons, order, notice, or process in a civil action upon such bond shall be a sufficient service upon him or his deputies.

Thereupon the secretary of state shall issue certificates to him, and to not exceeding three deputies by him, and for whose acts he shall be responsible, authorizing the holder to perform the duties herein referred to while such commission is in force. And each may seize and hold any animal which he may know or have reason to believe has strayed or been stolen from the state whence said commission issued. (R. L. '05, §2167; G. S. '13, §4702; Apr. 17, 1933, c. 303.)

**5416. County board may appropriate money for cattle testing.**—The boards of county commissioners of the several counties of this state may, in their discretion, and upon petition signed by cattle owners residing therein equal in number to a majority of the cattle owners within the county, as shown by the last preceding assessment roll, shall, immediately or at the next meeting of the board of county commissioners, enter into an agreement with the State Live Stock Sanitary Board for the testing of all cattle in the county on the "county area" plan, and shall also appropriate out of the funds of the county not otherwise appropriated, a sum of money not exceeding twenty-five cents per head of cattle for each tuberculin test that may be administered, until the percentage of tuberculous cattle within the county is reduced to meet the requirements of a "modified accredited area" as defined and approved by the United States Department of Agriculture and the State Live Stock Sanitary Board of Minnesota, for the purpose of aiding in the testing of cattle in the county for