

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

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



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CHAPTER 30

Live Stock Sanitation

§5402. Diseased horses and cattle to be killed—Rate of compensation to owner.— Whenever the State Livestock 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. (As amended 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.)

* * * * *

(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).

§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 tuberculosis and of carrying out sanitary and quarantine regulations. When there are no funds available for such an appropriation, a tax shall be levied in a sufficient amount for the purpose, and after the levy thereof orders may be issued against such tax and in anticipation of its collection. All such money shall be expended under the direction and supervision of the State Live Stock Sanitary Board and shall be disbursed on vouchers verified by the executive officers of said board, and in cases where the United States Department of Agriculture, Bureau of Animal Industry, is a party to a cooperative agreement with the county for the control of tuberculosis in cattle, by the federal inspector in charge, as hereinafter provided; provided that, in counties where petitions for the tuberculin test of cattle have been heretofore filed with the boards of county commissioners as herein provided, and in which the boards of county commissioners have not entered into an agreement with the State Live Stock Sanitary Board for the testing of all the cattle in the county, the boards of county commissioners of such counties shall, upon petition of one hundred or more resident cattle owners, forthwith enter into such contract and

otherwise in all things comply with the provisions of this act. (As amended Apr. 25, 1931, c. 360, §1.)

Vouchers issued by the Live Stock Sanitary Board and the federal inspector are insufficient to authorize the county auditor to issue warrants without approval of the county board, but no warrants may be issued in excess of levy of tax for the purpose, but the county board may be compelled to include a sufficient levy to pay the bills in the next years levy. Op. Atty. Gen., Dec. 10, 1929.

Levy under this section is not subject to the seven mill limit prescribed by §2060-1. Op. Atty. Gen., May 31, 1930.

Persons who own cattle but whose names do not appear upon the assessment roll as owning cattle may sign the petition and be counted. Op. Atty. Gen., Feb. 20, 1931.

Persons signing petition for a tuberculin test under the county area plan have a right to withdraw their names therefrom, and petitioners who sign a remonstrance thereby withdraw their names. Op. Atty. Gen., July 2, 1931.

The 1931 amendment applied to petitions for a tuberculin test under the county area plan where presented to the board after the amendment, though signed prior thereto. Op. Atty. Gen., July 2, 1931.

§5417. Live stock sanitary board to make test.—The State Live Stock Sanitary Board shall then enter into an agreement with the county commissioners of said county to cause the testing of all cattle in the county for tuberculosis, provided funds are available for the payment of indemnities as required by law, and provided also that an adequate force of veterinarians qualified to test cattle as required are available. Such agreement shall specify such quarantine rules and regulations as the State Live Stock Sanitary Board may deem advisable relative to the control of tuberculosis among cattle in such county. (As amended Apr. 25, 1931, c. 360, §2.)

Persons employed by State Livestock Sanitary Board under this act are state "employees" within the Workmen's Compensation Law. 179 M425, 229NW560.

County is liable for applying tuberculin test to cattle owned by non-residents, pastured in the county. Op. Atty. Gen., Aug. 4, 1930.

§5418. Subsequent test to be made without expense.—After a county has been certified as a "modified accredited area," subsequent tests of cattle in the county and retests of infected herds and any and all retests necessary to keep and maintain said area free from bovine tuberculosis as herein required for a "modified accredited area" shall be made in the discretion of the State Live Stock Sanitary Board, and such tests and retests shall be without expense to the county. (As amended Apr. 25, 1931, c. 360, §3.)

§5446. Must have permits to administer virus.—No person shall use or administer virulent blood or hog cholera virus within this state unless he shall have been granted a permit by the board authorizing him to use or administer the same. Such permits shall be in writing and shall be issued only to such persons as in the opinion of the board are qualified to administer the same and shall only be used or administered in infected territory. The area within a radius of six miles from premises whereon hog cholera exists, or has existed within the preceding twelve months, shall constitute infected territory. Qualified licensed veterinarians may administer virulent blood or hog cholera virus in

non-infected territory upon receipt of a special permit to administer the same to hogs on an individual farm. All permits shall require the holders thereof to comply with all quarantine regulations of the board and may be cancelled by the board upon it appearing that the holder thereof is no longer a proper person to administer such virulent blood or hog cholera virus. (As amended Feb. 23, 1929, c. 36.)

§5460-1 to 5460-3. [Repealed].

Repealed Feb. 20, 1929, c. 33, §5.

§5460-3½. Cattle must be tested.—It is hereby declared unlawful for any person to sell or offer for sale any cattle at public auction, mortgage foreclosure sale or sale by order of any court unless the same shall have been tested and found free of tuberculosis and certificate of such test being exhibited as provided in section 2 [§5460-3½a] of this act, provided the provisions of this act shall not apply to herds of cattle so located as not to be within 25 miles of a regularly licensed veterinarian. (Act Feb. 20, 1929, c. 33, §1.)

§5460-3½a. Live Stock Sanitary Board to make tests.—Such tests shall be made according to the rules and regulations of the State Live Stock Sanitary Board and a certificate of such test approved by the board shall be exhibited to the purchaser by the vendor at the time of sale, and the auctioneer or other person conducting such sale shall publicly announce prior to conducting the sale, that the certificate of such test approved by the board has been obtained and is available to be exhibited. No auctioneer or other person conducting such sale shall conduct any public sale in this state unless a certificate of such test approved by the board shall be exhibited by the vendor of such cattle at the time of such sale. (Act Feb. 20, 1929, c. 33, §2.)

§5460-3½b. Violation a misdemeanor.—Any person violating the provisions of this act shall be guilty of a misdemeanor, and any auctioneer knowingly conducting a sale of cattle in violation of this act, shall upon conviction forfeit his license as an auctioneer. (Act Feb. 20, 1929, c. 33, §3.)

§5460-3½c. Invalidity of one section not to affect act.—If any section or part of this act shall be declared unconstitutional or invalid for any reason, the remainder of the act shall not be affected thereby. (Act Feb. 20, 1929, c. 33, §4.)

POULTRY

§5460-7. Poultry breeding board created.—For the purpose of fostering the development of the poultry industry of the state of Minnesota, particularly through the improvement of breed type and productiveness of poultry flocks and through the control and eradication of infectious and communicable diseases and for the further purpose of affording protection to buyers of poultry breeding stock by providing and indicating dependable sources from which poultry may be purchased, there is hereby created a body to be known as the Minnesota Poultry Improvement Board which shall be constituted as follows:

The Commissioner of Agriculture, Dairy and Food of the State of Minnesota, the Chief of the Poultry Division of the College of Agriculture, University of Minnesota, the secretary and executive officer of the State Livestock Sanitary Board and two other members who shall be competent and experienced poultrymen and who shall also be owners and operators of commercial poultry hatcheries to be appointed by the governor of the state of Minnesota each for terms of three years and until their successors qualify; provided, however, that, of the first two appointments of hatchery owners after the passage of this act, one shall be appointed for a two-year term only. (Act Apr. 25, 1931, c. 408, §1.)

§5460-8. Board to serve without compensation.—The members of the Minnesota Poultry Improvement Board shall serve without compensation as such, but the expenses of each, necessarily incurred in the discharge of his duties, shall be paid by the state. Within 30 days after this act goes into effect the board shall meet and elect a president and a vice president and do such other things as are needful to initiate the work provided for in this act. The board shall hold quarterly meetings at the seat of government on the first Tuesday after the first Monday in January, April, July and October. Officers shall be elected at the April meeting. Special meetings may be held upon the call of the president of the board. Three members shall constitute a quorum. (Act Apr. 25, 1931, c. 408, §2.)

§5460-9. Powers and duties.—The Minnesota Poultry Improvement Board shall have power to employ a secretary and executive officer, not a member of the board, for a term of one year and until his successor qualifies. The said secretary and executive officer shall be a competent and experienced poultryman. The board may also employ and dismiss at will such other persons as are necessary to carry out the provisions of this act and to fix all salaries and to provide for expenses generally not inconsistent with law. The board is further authorized and directed to formulate and adopt a plan or plans whereby owners of poultry breeding flocks may, upon application, have such flocks culled, inspected and supervised to the end that such flocks may be accredited and certified for standard type and egg production; and likewise poultry hatcheries may be accredited and certified as hatching and selling stock produced only from accredited and certified flocks. The board is further authorized to make, publish and enforce rules and regulations to these ends not inconsistent with law and to define, prescribe and authorize the use of uniform terminology to apply to varying degrees of accreditation and certification. The board is further authorized to adopt the STANDARD BREEDING PLAN of accreditation and certification sponsored by the United States Department of Agriculture or any other plan sponsored by said department and to cooperate with said department in matters of poultry improvement. The board is further authorized to prescribe and collect fees for inspection and supervision and to prescribe and furnish labels, leg bands and certificates

of accreditation and certification and such other supplies as may be necessary and to prescribe and collect fees for the same. The board is further authorized to do such other things as it may deem needful and expedient to improve poultry breeding and practices and to give effect to this act. (Act Apr. 25, 1931, c. 408, §3.)

§5460-10. Advertising.—Owners of accredited and certified poultry breeding flocks and hatcheries shall have the right to use the terminology prescribed by the board in their literature and advertising and on shipping labels, provided that the board may by regulation require the submission of all or any part of such literature and advertising matter to it for review and approval before publication or issuance. (Act Apr. 25, 1931, c. 408, §4.)

§5460-11. Disposition of fees.—All fees collected under this act shall be deposited in the state treasury and shall be placed in a special fund to be known as the "Poultry Improvement Board Fund," available for and from which expense of the board in carrying out this act shall be paid. (Act Apr. 25, 1931, c. 408, §5.)

§5460-12. To cooperate with the state live stock sanitary board.—The State Livestock Sanitary Board shall cooperate with the Minnesota Poultry Improvement Board in all ways consistent with law, provided that the State Livestock Sanitary Board shall have exclusive jurisdiction and control over all matters pertaining to poultry diseases and the control and eradication thereof. And the State Livestock Sanitary Board is hereby authorized to formulate, adopt and enforce rules and regulations whereby owners of poultry breeding flocks may, upon agreement with the said board, have such flocks examined, tested and officially designated as tested, approved or accredited free from bacillary white diarrhea, tuberculosis or other communicable infectious diseases when and as approved methods for official testing for such other diseases may be adopted by the said board; provided there are necessary personnel and available funds appropriated for the use of the said board in making such tests and inspections. In order to distinguish eradication of specific diseases, the abbreviation for the disease shall be prefixed to the words "tested," "approved" or "accredited," as "T. B. Tested", "T. B. Approved" and "T. B. Accredited" for tuberculosis and "B.W.D. Tested", "B.W.D. Approved" and "B.W.D. Accredited" for bacillary white diarrhea. (Act Apr. 25, 1931, c. 408, §6.)

§5460-13. Products to be labeled.—All poultry and poultry products shipped under the authority of this act shall be uniformly labelled with designs prescribed and furnished by the Minnesota Poultry Improvement Board, provided that all labeling for testing, approval and accreditation as to disease shall first be approved by the State Livestock Sanitary Board. (Act Apr. 25, 1931, c. 408, §7.)

§5460-14. Certain advertising prohibited.—No person, firm, association, partnership or

corporation shall use in literature, advertising material or on shipping labels or otherwise the words "tested", "approved", "accredited" or "certified" in conjunction with either the word "state" or the word "Minnesota" or both of them as related to a poultry hatchery or a poultry breeding flock except under the authority of this act. (Act Apr. 25, 1931, c. 408, §8.)

§5460-15. May cancel certificates.—In his discretion, the secretary and executive officer of the Minnesota Poultry Improvement Board may cancel any certificate of accreditation or certification issued under the authority of his board, and likewise the secretary and executive officer of the State Livestock Sanitary

Board may cancel any certificate of testing, approval or accreditation issued under the authority of his board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor. (Act Apr. 25, 1931, c. 408, §9.)

Sec. 10 of the act makes an appropriation for fiscal year ending June 30, 1932.

§5460-16. Effective September 1, 1931.—This act shall take effect—and be in force from and after the first day of September, 1931. (Act Apr. 25, 1931, c. 408, §11.)

CHAPTER 30A Inspection of Apiaries

§5461. State inspector—Deputies.

Determination by the appointing power on question of fact as to whether appointee has had such practical experience as to render him eligible as a practical apiarist, will be binding on the courts in the absence of a clear abuse of judicial discretion. Op. Atty. Gen., June 10, 1931.

§5471. Compensation of inspector and deputies.

Deputy inspectors are entitled to be reimbursed for expenses incurred in the performance of their duties. Op. Atty. Gen., June 10, 1931.

CHAPTER 31 Inspection of Steam Vessels and Boilers

The court's charge that the defendant was not responsible for the arrival of the corn at Buffalo in a damaged condition, unless its negligence caused the damage, was sufficient to relieve defendant of responsibility for damage due to the propensity of the corn to sweat and heat, if the sweating and heating occurred without negligence on its part. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(14), 9002.

Unseaworthiness is not confined to faults, or omissions in the construction of the vessel, but may arise out of a fault in the conduct of defendant in relation to the vessel and its equipment, including proper manipulation of hatches to afford ventilation. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 9002.

The damage to plaintiff's property occurred prior to the commencement of the voyage, and the Harter Act (Mason's USCA, Tit. 46, §§190-195), did not apply or relieve defendant of liability. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 9002.

It was defendant's duty as bailee to exercise reasonable care to ascertain the characteristics of the cargo it proposed to store and transport.

Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(10).

In every contract of affreightment by water, unless otherwise expressed, there is an implied warranty of the seaworthiness of the ship, not only of reasonable fitness to meet the ordinary perils of the sea, but seaworthiness as respects the particular cargo to be transported, including stowage as respects seaworthiness in regard to the cargo. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 9002.

The burden of proof was upon the bailee to show itself free from negligence causing damage to a cargo of corn which it stored for the winter in its ship at Milwaukee and transported to Buffalo upon the opening of navigation. Rustad v. Great Northern Ry. Co., 122M453-456, 142 NW727, followed and applied. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(14), 9002.

Evidence held to sustain finding that negligence of steamship company in ventilation and stowage of corn and its failure to remove snow from deck caused damage to cargo. Cargill Grain Co. v. C., 235NW268. See Dun. Dig. 732(14), 9002.

CHAPTER 31A Inspection and Regulation of Aircraft

UNIFORM STATE LAW FOR AERONAUTICS

§5494-7. Definitions.—In this act "Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed

by the rules regarding water navigation; while being operated through the air otherwise than immediately above water, it shall be treated as an aircraft.

"Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Passenger" includes any person riding in