

1944 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by  
the  
Publisher's  
Editorial Staff

**MINNESOTA STATE LAW LIBRARY**

MASON PUBLISHING CO.  
SAINT PAUL 1, MINNESOTA

1944

~~PROPERTY OF  
MAHONIN LAW LIBRARY  
ASSOCIATION~~

An advisory board of seven members shall be appointed in the following manner to make recommendations to the state department of health and to assist in the establishment of such standards and any amendments thereto. This board shall consist of four members to be appointed annually from the membership of the Minnesota hospital association by the board of trustees thereof, one of said four members shall be the superintendent of a hospital operated by a county or other local governmental unit, and two members shall be doctors of medicine to be appointed annually from the Minnesota state medical association by the council of the Minnesota state medical association. The director of public institutions of the state of Minnesota, or a person from said division designated by him, shall be the seventh member of said advisory board. Provided, however, that no regulation nor requirement shall be made, nor standard established, under this act for any sanatorium, nursing home, nor rest home conducted in accordance with the practice and principles of the body known as the Church of Christ, Scientist, except as to the sanitary and safe condition of the premises, cleanliness of operation, and its physical equipment. (Act Apr. 28, 1941, c. 549, §7, as amended Apr. 24, 1943, c. 649, §7.) [144.56]

**5394-32. Application of act—Transfer of personnel.**—All hospitals, sanatoriums, rest homes, nursing homes, and related institutions within the meaning of this act, including such hospitals as are strictly maternity hospitals only, shall come within this act and this act shall be in extension of the maternity hospital licensing law and shall not in any way be construed to restrict or modify such act, except that such maternity hospital licenses shall hereafter be issued by the state department of health. All personnel now a part of the division of social welfare who are charged with the enforcement of the maternity hos-

pital licensing law shall be transferred to the state department of health. Such transferred employees shall retain their present civil service status. (Act Apr. 28, 1941, c. 549, §8.) [144.57]

All functions provided for in maternity licensing law that are specifically covered in this act are necessarily transferred to department of health, and in addition such administrative procedure as is necessary to proper functioning. Op. Atty. Gen., (840a-8), June 24, 1941. Licensing of maternity hospitals is one of functions transferred to department of health, and it is no longer necessary for division of social welfare to issue license. Id.

**5394-33. Information received considered confidential—Exception.** Information received by the state department of health through inspections and authorized under this act shall be confidential and shall not be disclosed except in a proceeding involving the question of licensure. (Act Apr. 28, 1941, c. 549, §9.) [144.58]

**5394-34. Violation of Provisions—Penalties.**—Any person, partnership, association, or corporation, including state, county or local governmental units, or any division, department, board or agency thereof, establishing, conducting, managing, or operating any hospital, sanatorium, rest home, nursing home, or institution within the meaning of this act, without first obtaining a license therefor as herein provided, or shall violate any of the provisions of this act or regulations thereunder, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed \$100.00 or a sentence of not to exceed 90 days in the county jail. (Act Apr. 28, 1941, c. 549, §11, as amended Apr. 24, 1943, c. 649, §10.) [144.49]

**5394-35. Time act takes effect.**—This act shall take effect and be in force from and after the first day of January, 1942. (Act Apr. 28, 1941, c. 549, §11.)

CHAPTER 30

Live Stock Sanitation

**5399. Reporting disease—Compelling testimony.** Prospective purchasers of cattle conducting a private test for Bang's disease commit a misdemeanor if they do not notify board when they find reactors. Op. Atty. Gen. (293b-8), Dec. 18, 1942.

**5403. Same—Inspection before killing—Appraisal of and payments to owners for animals killed—Eradication of foot and mouth diseases.**—(a) Notwithstanding any provision of this chapter to the contrary, neither cattle affected with tuberculosis, paratuberculosis; Bang's disease, 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, glanders, or Bang's disease, 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, except that in all cases where the federal bureau of animal industry compensates the owner for such animal, in whole or in part, then the amount of such compensation so received from the federal government shall be deducted from the amount of indemnity payable by the state; provided that in no case shall any payment be more than \$15.00 for grade females or more than \$30.00 for any purebred animal, and that no payment shall be made unless the owner has complied with all lawful rules and regulations of the board; and provided further that two-thirds of the appraised value of any horse slaughtered as provided herein shall be paid to the owner thereof

by the state after disposal of the carcass of said horse as directed by the board.

(b) The owner of any animal, as provided in this act, shall be entitled to indemnity therefor as herein provided, except in the following cases:

1. Indemnity shall not be paid for steers or grade bulls.
2. Animals which have not been kept for one year, or since their birth in good faith, in the state.
3. Animals brought into the state, or from one county into another within the state, contrary to any provision of law or rules and regulations of the board.
4. Animals diseased at time of arrival in this state.
5. Animals belonging to the United States.
6. Animals belonging to institutions maintained by state, county or municipality.
7. Animals which the owner or claimant knew to be diseased or had notice thereof at the time they came into his possession, or when the owner shall have been guilty of negligence by wilfully exposing his animal or animals to Bang's disease, or if the animals have been injected with Bang's disease vaccine. Bacterin or other preparations made from or through the agency of Brucella Micro-organisms unless done in compliance with the rules and regulations of the state livestock sanitary board.

8. When the owner has received indemnity as a result of a former inspection or tests and has hereafter introduced into his herd any animals which theretofore had not passed the tuberculin or Bang's disease test.

9. Where the owner, agent, or person in possession of said animal has not complied with the rules and regulations of the board with respect to animals condemned.

10. When the condemned animals are not destroyed within fifteen days after date of appraisal, except that in extraordinary circumstances and in meritorious cases and at the discretion of the secretary and executive officer of the board, said time limit of fifteen days may be extended an additional fifteen days, provided, however, that the owner receives permission to do so from the said secretary and executive officer within fifteen days of date of appraisal.

11. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, glanders, or Bang's disease, unless the entire herd of which such affected livestock is a part, or from which such affected livestock has originated, shall be examined and tested under the supervision of the board, in order to determine if they are free from such disease.

12. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, glanders, or Bang's disease, unless the owner has carried out the instructions and regulations of the board relating to the cleaning, disinfection and rendering the stables and premises in a sanitary condition, within fifteen days from the time of removal of such animals from the premises, except when because of inclement weather or other extenuating circumstances, the time may be extended by the executive officer of the board.

13. No indemnity or compensation shall be paid for the destruction of any livestock affected with tuberculosis, paratuberculosis, or Bang's disease, if the owner has fed milk or milk products derived from creameries and which have not been pasteurized as required by state laws and regulations.

14. If, at any time, the annual appropriation for payment of indemnities becomes exhausted as a result of condemnation and slaughter of animals, the state livestock sanitary board shall discontinue making further official tests or to authorize such tests, with the exception that if an owner signs a waiver, on blanks to be furnished by said board, for payment of indemnity for any animals that may be condemned as the result of a test and inspection, and releasing the state from any obligation to pay indemnity from any future appropriation.

15. When the owner is a non-resident and neither he nor his duly authorized agent or agents are engaged in breeding livestock in this state.

(c) Whenever it is determined by the board that it is necessary to eradicate the dangerous, infectious, communicable foot and mouth disease among domestic animals in the state in co-operation with the United States Bureau of Animal Industry and to appraise and destroy animals affected with or which have been exposed to this disease, or to destroy property in order to remove the infection and complete the cleaning and disinfection of the premises or to do any act or incur any other expense reasonably necessary in suppressing this disease, the board may accept, on behalf of the state, the rules and regulations adopted by the United States Bureau of Animal Industry under authority of an act to Congress, or such portion thereof deemed necessary, suitable or applicable, and co-operate with the United States Bureau of Animal Industry in the enforcement of such rules and regulations so accepted; or it may follow such procedure only as to quarantine or inspection or condemnation or appraisal or destruction or burial of animals, disinfection and other acts deemed by it reasonably necessary in the suppression of this disease as may be agreed upon and adopted by the board and representatives or authorized agents of the United States Bureau of Animal Industry, the total

expense to be shared equally between the state and federal government.

The appraisals of animals affected with or exposed to foot and mouth disease, or contact animals shall be made by an appraisal board consisting of a representative of the board, a representative of the United States Bureau of Animal Industry and the owner of the animals or his representative, such appraisals, in writing, and signed by the appraisers, to be made at the true market value of all animals.

Upon destruction and burial of such animals, and the completion of the cleaning and disinfection of the premises, the state livestock sanitary board shall certify the appraisal to the auditor of the state, who shall draw a warrant on the state treasurer for one-half the amount thereof payable to the owner, and the remaining one-half of such appraisal to be paid by the federal government under such co-operative arrangement. (As amended Act Mar. 15, 1941, c. 67, §1.)

If board should find that moneys available are not sufficient to carry on a program of eradication throughout whole state, it may by proper action determine where greatest need for eradication of Bang's Disease exists, and may set aside all or part of money available to a specific part or parts of state providing that such action is not arbitrary. Op. Atty. Gen. (293A-8), Jan. 14, 1942.

Under rules and regulations of the board, providing for Certified Bang's Disease—Free Herds, an owner is not entitled to indemnity where he shipped some reactors within 15-day period, but through some misunderstanding failed to ship other reactors within time specified. Op. Atty. Gen. (293B-1), Feb. 24, 1942.

(b). Indemnity is payable for slaughtered reactors to Bang's Disease even though some reactors are segregated, but indemnity will only be paid for animals slaughtered within the time limit. Op. Atty. Gen. (293B-1), Feb. 24, 1942.

#### 5407. Offenses and penalties.

Failure to comply with rules and regulations of State Livestock Sanitary Board relating to testing of cattle for Bang's disease is punishable under this section. Op. Atty. Gen., (293b-1), May 14, 1941.

Prospective purchasers of cattle conducting a private test for Bang's disease commit a misdemeanor if they do not notify board when they find reactors. Op. Atty. Gen. (293b-8), Dec. 18, 1942.

#### 5437. Bonds.

One bond in sum of \$5,000 qualifies a company for any number of distributing agencies, but consent of surety on bond originally given should be obtained before issuing permit for additional distributing agencies. Op. Atty. Gen., (293B-12), March 5, 1940.

There is no statutory authority for execution by any state official of cancellation certificates as means of terminating liability of surety, but board may write a letter to surety stating that permit of principal expired on a certain day. Op. Atty. Gen. (293a-3), Aug. 24, 1940.

### CATTLE WITH BANG'S DISEASE

5460-26. Cattle owners to assist in making test.—Whenever in accordance with this act the board by its order has fixed the time for commencement of testing in any area, all cattle owners and persons in possession of cattle in the area shall upon demand submit the same for Bang's disease testing and physical examination by the board or its authorized agent or agents, and all such persons shall assist the board and its agents in applying said tests and in making such physical examinations whenever the board or its agents enter upon the premises where such cattle are located and makes demand therefor, or in making any retest of cattle within such area, as provided in this act. Such owner or person in possession shall account for all animals tagged in making such tests and retests, and shall submit all such cattle to the board or its agents at any time when the board or its agents visit said premises to make further tests or examinations. Such owner or person in possession shall also remove from the premises or segregate reacting cattle or cause the same to be slaughtered as required by said board, and shall not use milk or milk products, or sell or dispose of the same, from reacting cattle unless the milk or the milk from which said products have been made has been properly pasteurized. (As amended Mar. 28, 1941, c. 95, §1.)

Indemnity is payable for slaughtered reactors to Bang's Disease even though some reactors are segregated, but indemnity will only be paid for animals slaughtered within the time limit. Op. Atty. Gen. (293B-1), Feb. 24, 1942.

#### 5460-27. Board to make and enforce rules.

Failure to comply with rules and regulations of sanitary board are punishable under §5407. Op. Atty. Gen. (293b-1), May 14, 1941.

## CHAPTER 31

### Inspection of Steam Vessels and Boilers

#### 5474. District boiler inspector—Appointment, etc.

Boilers belonging to a state department must be inspected and department must pay fee. Op. Atty. Gen., (33c), Dec. 18, 1939.

Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

An individual operating a steam boiler, to furnish steam for pressure retorts at a community canning center, should be required to obtain a license to operate the boiler. Op. Atty. Gen. (136d), May 21, 1943.

#### 5480. Examination of master and pilots.

Inspection by State Boiler Inspectors is required in case of motor boat used exclusively for towing row boats which are occupied by a pilot and persons fishing or outing on inland lakes. Op. Atty. Gen. (34g-2), Apr. 24, 1942.

#### 5486. Allowance of and aiding inspection—License, etc.

It is not necessary for employee of a city lighting and heating plant working under supervision of a chief engineer to take out a steamfitter's license in order to make minor repairs, and they need not secure an engineer's license unless they are entrusted with operation of a steam boiler or steam machinery. Op. Atty. Gen., (34f), Oct. 18, 1939.

It is not necessary for a civil service employee of federal government operating a boiler upon federal property to have a state boiler license. Op. Atty. Gen., (34f), March 29, 1940.

An individual operating a steam boiler, to furnish steam for pressure retorts at a community canning center, should be required to obtain a license to operate the boiler. Op. Atty. Gen. (136d), May 21, 1943.

5490. District boiler inspector to deliver certificates—fees for inspection.—After examination and tests, if the district boiler inspector, finds any steam boiler or pressure vessel safe and suitable for use, he shall deliver to the chief boiler inspector a verified certificate in such form as the chief boiler inspector shall prescribe, containing a specification of the tests applied and the working pressure allowed, a copy of which the district boiler inspector shall furnish to the owner of the boiler or pressure vessel, who shall post and keep the same in a conspicuous place on or near boiler or pressure vessel. The district boiler inspector is entitled to a fee of \$3.00 for the inspection of each boiler or pressure vessel and its connections, payable on delivery of the certificate. The fee for inspection of tanks or receptacles containing air under pressure is \$1.00. The fee for the examination for an engineer's license is: Chief engineer, \$7.00; first-class, \$5.00; second-class, \$3.00, and special, \$2.00; and for each yearly renewal, \$1.00. 50 per cent of all license fees shall go to create a fund to be known as the boiler inspectors' fund and 50 per cent to the inspector of the district where the examination is held or renewal made. This fee shall accompany the application. (As amended Apr. 7, 1943, c. 340, §1.)

Boilers belonging to a state department must be inspected and department must pay fee. Op. Atty. Gen., (33c), Dec. 18, 1939.

Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

## CHAPTER 31A

### Inspection and Regulation of Aircraft

#### UNIFORM STATE LAW FOR AERONAUTICS

##### 5494-1 to 5494-10. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

No state department has jurisdiction over location of power wires and poles to extent of requiring removal in interest of public safety. Op. Atty. Gen. (234), Nov. 7, 1941.

##### 5494-11. Owners of aircraft liable for injuries. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

When a plaintiff has proved a bailment the defendant has burden of establishing before jury that defendant's negligence did not cause loss of property bailed, and this is not merely the burden of going forward with proof, but the burden of establishing due care on its party by a preponderance of the evidence, and this was true as to a flying field which was shown to be bailee of a light airplane destroyed by wind storm. Zanker v. Cedar Flying Service, 214M242, 7NW(2d)775. See Dun. Dig. 249c.

Proprietor of a flying field as bailee of a light airplane must exercise care commensurate with likely changes in weather and effect of high or squally winds upon such a plan must be taken into account by it, as effecting its liability for destruction of the plane by a wind storm. Id.

##### 5494-12 to 5494-15. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

##### 5494-16. Certain acts a misdemeanor. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

This section was amended in 1941, c. 386, §1.

This section supersedes Mason St., §1628, but does not supersede §1629. Op. Atty. Gen., (234a), July 21, 1941.

##### 5494-17 to 5494-36. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

#### ACT TO REGULATE AERONAUTICS

##### 5494-36 ½. Definitions. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

This act has been adopted by the following states: Arizona, Delaware, Georgia, Hawaii, Idaho, Indiana, Maryland, Michigan, Minnesota, Montana, Nevada, New Jersey, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont and Wisconsin.

Sovereign power and jurisdiction of a state is not limited to the ground, and an airplane in the air over territory of a state is within the state and subject to its sovereign power. State v. Northwest Airlines, 213M395, 7NW(2d)691. See Dun. Dig. 249a, 8824.

(j). A ground school conducted by a state teachers' college need not be licensed. Op. Atty. Gen. (234d), Nov. 5, 1941.

##### 5494-36 ½ a to 5494-36 ½ j. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

##### 5494-36 ½ k. Airport operators to make application for approval—Licenses. [Repealed.]

Repealed. Laws 1943, c. 653, §24.

Commission may require applicants for license to conduct an air school to make a showing of financial ability and to comply with requirements of laws and regulations pertaining to safety, but may not require operator of school to furnish bond in support of his financial responsibility or prescribe a code of prices or rates. Op. Atty. Gen. Sept. 18, 1941.

A ground school conducted by a state teachers' college need not be licensed. Op. Atty. Gen. (234d), Nov. 5, 1941.

##### 5494-36 ½ l to 5494-36 ½ w. [Repealed.]

Repealed. Laws 1943, c. 653, §24.