

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



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR. }
R. O. MASON } Assistant Editors
J. S. O'BRIEN }

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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 an aircraft but having no part in its operation. (Act Apr. 17, 1929, c. 219, §1.)

5494-8. Sovereignty of air in state.—Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state. (Act Apr. 17, 1929, c. 219, §2.)

5494-9. Air rights of surface owner.—The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in Section 4 [§5494-10]. (Act Apr. 17, 1929, c. 219, §3.)

5494-10. Regulation of flight of aircraft.—Flight in aircraft over the lands and waters of this state is lawful, unless at such low altitudes as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the aeronaut shall be liable as provided in Section 5 [§5494-11]. (Act Apr. 17, 1929, c. 219, §4.)

5494-11. Owners of aircraft liable for injuries.—The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury or damage is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property damaged. If the aircraft is leased at the time of the injury or damage to person or property, both the owner and lessee shall be liable, and they may be sued, jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the damaged property, shall have a lien on the aircraft causing the injury or damage to the extent of such injury or damage caused by the aircraft or objects falling from it. (Act Apr. 17, 1929, c. 219, §5.)

5494-12. State law to govern as to crimes, etc., in aircraft.—The liability of the owner of one aircraft, to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air shall be determined by

the rules of law applicable to torts on land. (Act Apr. 17, 1929, c. 219, §6.)

5494-13. Same—law governing.—All crimes, torts, and other wrongs committed by or against an aeronaut or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime or other wrong by or against the owner of such aircraft shall be determined by the laws of this state. (Act Apr. 17, 1929, c. 219, §7.)

5494-14. Contractual relations same as on land or water.—All contractual and other legal relations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath. (Act Apr. 17, 1929, c. 219, §8.)

5494-15. Aircraft to be equipped with parachutes.—Each occupant of any aircraft engaged in acrobatic or stunt flying shall be equipped with a parachute, and any aeronaut so operating such aircraft without the occupants being so equipped shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §9.)

5494-16. Certain acts a misdemeanor.—Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this state, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §10.)

5494-17. Hunting from airplanes prohibited.—Any aeronaut or passenger who, while in flight in an airplane, within this state, shall intentionally kill or attempt to kill any birds or animals excepting those on which the state pays a bounty, or uses any airplane for the purpose of concentrating, driving, rallying or stirring up migratory water-fowl, shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §11; Apr. 17, 1933, c. 314.)

5494-18. Interpretation and construction.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and to harmonize, as far as possible with federal laws and regulations on the subject of aeronautics. (Act Apr. 17, 1929, c. 219, §12.)

5494-19. Uniform state law for aeronautics.—This act may be cited as the uniform state law for aeronautics. (Act Apr. 17, 1929, c. 219, §13.)

5494-20. Application.—The provisions of this act shall not apply to naval or military aircraft whether owned by or used in the service of this state or the United States. (Act Apr. 17, 1929, c. 219, §14.)

5494-21. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 17, 1929, c. 219, §15.)

UNIFORM AIR LICENSING AND AIR TRAFFIC ACT

5494-22. Definitions.—In this act, the term "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

The term "Public Aircraft" means an aircraft used exclusively in the governmental service of the United States or of any state or territory thereof.

The term "Civil Aircraft" means any aircraft other than a public aircraft used as provided in Section 2, Subdivision B of the Federal Air Commerce Act of 1926 [Mason's U. S. Code, Supp. No. 1, Title 49, §§171 to 184].

The term "Airmen" means any individual (including the person in command, and any pilot, mechanic or member of the crew) who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling or repairing of aircraft.

The term "Person" means an individual, a partnership, or two or more individuals having a joint or common interest, or a corporation.

The term "air commerce" means transportation in whole or in part by aircraft of persons or property for hire, navigation of aircraft and furtherance of a business, or navigation of aircraft from one place to another for operation in the conduct of a business. (Act Apr. 23, 1929, c. 290, §1.)

Probably superseded by §§5494-36½ to 5494-36¾ w, post.

Does not have the effect of withdrawing aeroplanes from taxation as personal property. Op. Atty. Gen., Mar. 30, 1931.

5494-23. United States air commerce act to apply.—It is hereby declared that the policy, principles and practices established by the United States Air Commerce Act of 1926 [Mason's U. S. C. A., supp. No. 1, Title 49, §§171 to 184], and all existing amendments thereto, are hereby adopted and extended and made applicable, mutatis mutandis, to cover all air traffic in this state, so far as not covered by federal law at any time. (Act. Apr. 23, 1929, c. 290, §2.)

See note under 5494-22.

5494-24. Registrar of motor vehicles to administer act.—The registrar of motor vehicles shall administer the provisions of this act, and for such purpose is authorized to make such regulations as are necessary to execute the functions vested in him by this act, including air traffic rules, which regulations shall conform to and coincide with, so far as possible the provisions of the Air Commerce Act of 1926, and existing amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations and air traffic rules issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §3.)

See note under 5494-22.

5494-25. Aircraft must be licensed.—No civil aircraft shall be flown in air commerce in this state unless such aircraft either is licensed as provided by Section 6 [5494-27] of this act, or shall have an appropriate existing license under federal law. (Act Apr. 23, 1929, c. 290, §4.)

See note under 5494-22.

5494-26. Pilots must be licensed.—No person shall act as an airman of any civil aircraft when such aircraft is flown or operated in this state unless he shall have either a license as provided in Section 7 [§5494-28] of this act, or an appropriate existing license under federal law. (Act Apr. 23, 1929, c. 290, §5.)

See note under 5494-22.

5494-27. Registrar to issue and revoke licenses.—The registrar of motor vehicles shall provide for the issuance and expiration, and for the suspension and revocation of licenses of civil aircraft, in accordance with the regulations promulgated by him, which regulations shall generally conform to and coincide with the provisions of the Air Commerce Act of 1926, and existing amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §6.)

See note under 5494-22.

5494-28. To promulgate rules and regulations.—The registrar of motor vehicles shall provide for the issuance and expiration, and for the suspension and revocation of licenses as airmen to persons applying

therefor in accordance with regulations promulgated by him, which regulations shall conform to and coincide with, so far as possible, the provisions of the Air Commerce Act of 1926, and amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §7.)

See note under 5494-22.

5494-29. Fees for registration.—The registrar of motor vehicles shall collect fees as follows:

For the examination and tests of an applicant for an airman's license.....	\$10.00
For the examination and inspection of aircraft	10.00
For the issuance of certificate of registration for every aircraft	2.00

which fees shall be paid to the state treasury. (Act Apr. 23, 1929, c. 290, §8.)

See note under 5494-22.

5494-30. Not to apply to interstate commerce.—The provisions of this act shall not apply to civil aircraft or airmen while engaged exclusively in commercial flying constituting an act of interstate or foreign commerce, nor to public aircraft. (Act Apr. 23, 1929, c. 290, §9.)

See note under 5494-22.

5494-31. Violations—penalties.—Any person who acts as an airman for any civil aircraft when flown or operated in this state (except as in Section 9 provided) without holding an existing airman's license issued either in accordance with the provisions of this act or under federal law; or who flies or causes to be flown in this state any civil aircraft (except as in Section 9 [5494-30] provided) without an existing license for such aircraft issued either in accordance with the provisions of this act or under federal law; or who violates any provisions of this act or any rule or regulation promulgated hereunder shall be punishable by a fine of not more than \$100.00 or by imprisonment for not more than 90 days, or both. (Act Apr. 23, 1929, c. 290, §10.)

See note under 5494-22.

5494-32. Licensed aircraft to be designated.—Every civil aircraft licensed by this state shall have a letter "M" painted in one color in sharp contrast to the color of the aircraft on the lower surface of the right wing and the upper surface of the upper left wing, the top of the letter to be toward the leading edge, the height to be at least four-fifths of the mean chord; provided, however, that in the event four-fifths of the mean chord is more than thirty inches, the height of the letter need not be more but shall not be less than thirty inches. The failure to display the letter "M" as hereinbefore provided, or the unauthorized display thereof, is unlawful and every owner, operator, or lessee of said aircraft who violates this provision shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 290, §11.)

See note under 5494-22.

5494-33. Construction.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. (Act Apr. 23, 1929, c. 290, §12.)

See note under 5494-22.

5494-34. Title of act.—This act may be cited as the Uniform Air Licensing and Air Traffic Act. (Act Apr. 23, 1929, c. 290, §13.)

See note under 5494-22.

5494-35. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 23, 1929, c. 290, §14.)

See note under 5494-22.

5494-36. Effective November 1, 1929.—This act shall take effect from and after November 1st, 1929. (Act Apr. 23, 1929, c. 290, §15.)

See note under 5494-22.

ACT TO REGULATE AERONAUTICS

5494-36 1/2. Definitions.—When used in this Act.

(a) "Aeronautics" means the act or practice of the art and science of transportation by aircraft, and operation, construction, repair or maintenance of aircraft, airports, landing fields, emergency landing strips, air navigation facilities, or air instruction.

(b) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in the air, except a parachute or other contrivance designed for such navigation, but used primarily as safety equipment.

(c) "Public Aircraft" means an aircraft used exclusively in the governmental service, including military and naval aircraft, or of any state or territory thereof.

(d) "Civil Aircraft" means any aircraft other than a public aircraft.

(e) "Airport" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, and which provides facilities for the shelter, supply, and repair of aircraft, and which, as to size and design, has at least 1,800 feet of effective landing length in all directions, with clear approaches, and which field shall be in good condition for landing at all times, or has landing strips not less than 500 feet wide, permitting landing in at least six directions at all times, with at least one landing strip aligned with the general direction of the prevailing wind, the landing strips not to cross or converge at angles at less than 40 degrees, nor any one of the landing strips to be less than 1,800 feet in effective length with clear approaches, or has two landing strips, one aligned with the general direction of the prevailing wind, permitting at least 4-way landing at all times and having clear approaches, the landing strips to be at least 500 feet wide and at least 2,500 feet in effective length, and not to cross or converge at an angle less than 60 degrees; and which, in any case hereinbefore mentioned, meets the minimum requirements as to surface, marking, equipment and management as may from time to time be provided, by the Minnesota aeronautics commission.

(f) "Landing field" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, which may or which may not provide facilities for the shelter, supply and repair of aircraft, and which meets the minimum requirements as to size, design, surface, marking, equipment and management as may from time to time be provided by the Minnesota aeronautics commission.

(g) "Emergency landing strip" means an area, either of land or water, which is available for the landing and take-off of aircraft, having not less than 200 feet of useable width and not less than 1,000 feet of useable length, the use of which shall, except in case of emergency, be only as provided from time to time by the regulations of the Minnesota aeronautics commission.

(h) "Person" means any individual, association, copartnership, firm, company, corporation, or other association of individuals.

(i) "Air instruction" means the imparting of aeronautical information in any air school, flying club, or by any aviation instructor.

(j) Any person engaged in giving instruction, or offering to give instruction in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, and advertising, representing, or holding himself or itself out as giving or offering to give such instruction, shall be termed and considered an "Air School."

(k) Any person (other than an individual) who, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction,

or both, shall be termed and considered a "Flying Club."

(l) "Aviation instructor" means any individual engaged in giving instruction, or offering to give instruction, in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, without advertising such occupation, without calling his facilities an "Air school" or anything equivalent thereto, or without employing or using other instructors. (Act Apr. 22, 1933, c. 430, §1.)

5494-36 1/2 a. Aircraft must be licensed.—The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this state should conform with respect to design, construction, and airworthiness to the standards prescribed by the United States government with respect to navigation of civil aircraft subject to its jurisdiction, it shall be unlawful for any person to operate or navigate, or cause or authorize to be operated or navigated, any aircraft within the State unless such aircraft has an appropriate effective license, issued by the Department of Commerce of the United States, and is registered by the Department of Commerce of the United States; provided, however, that this restriction shall not apply to military aircraft of the United States or public aircraft of any state, territory, or possession thereof, or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft. (Act Apr. 22, 1933, c. 430, §2.)

5494-36 1/2 b. Pilots must be licensed.—The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that a person engaging within this State in navigating aircraft in any form of navigation, shall have the qualifications necessary for obtaining and holding a pilot's license issued by the Department of Commerce of the United States, it shall be unlawful for any person to navigate any aircraft in this State unless such person is the holder of a correct, effective pilot's license issued by the Department of Commerce of the United States; provided, however, that this restriction shall not apply to those persons operating military aircraft of the United States, or public aircraft of any state, territory, or possession thereof, or operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft. (Act Apr. 22, 1933, c. 430, §3.)

5494-36 1/2 c. Pilots to carry licenses.—The certificate of the license required for pilots shall be kept in the personal possession of the licensee when he is operating aircraft within this State and must be presented for inspection upon the demand of any passenger, or any peace officer of this State, any authorized official or employe of the Minnesota aeronautics commission or any official, manager, or person in charge of any airport in this State upon which he shall land, or upon the reasonable request of any other person. The aircraft license must be carried in the aircraft at all times and must be conspicuously posted therein where it may be readily seen by passengers or inspectors; and such license must be presented for inspection upon the demand of any passenger, any peace officer of this State, any authorized official or employe of the Minnesota aeronautics commission or any official, manager, or person in charge of any airport in this State upon which it shall land, or upon the reasonable request of any other person. (Act Apr. 22, 1933, c. 430, §4.)

5494-36 1/2 d. Minnesota aeronautics commission created.—There is hereby created an aeronautics commission to be known as the Minnesota aeronautics commission, consisting of five persons to be appointed by the Governor and to serve without pay;

provided, however, that at least three members of the commission must be, or have been, actively engaged in and have had at least three years of practical experience in civil aeronautics. The Governor shall from time to time designate the member of the commission who shall be its chairman and who shall so serve during the term of his appointment. Three of said persons, including the chairman, shall be appointed for a period of four years from and after the second Monday in the January following their appointment, and two for a period of two years from and after the second Monday in the January following their appointment, and upon the expiration of the terms of such respective commissioners the Governor shall appoint their successors, each to serve for a term of four years, and all to serve until their successors are appointed and qualified. (Act Apr. 22, 1933, c. 430, §5.)

5494-36½e. Organization.—The commission shall, within thirty days after its appointment, organize, adopt a seal for the commission and make such rules and regulations for the administration of the commission not inconsistent herewith as it may deem expedient, and may from time to time amend such rules and regulations. (Act Apr. 22, 1933, c. 430, §6.)

5494-36½f. Officers—records.—The commission may appoint a secretary to the commission, whose duty it shall be to keep a full and true record of all its proceedings, and keep the books and records in the general office of the commission, and to perform such other duties as the commission may prescribe. (Act Apr. 22, 1933, c. 430, §7.)

5494-36½g. May employ assistants.—The commission may employ such clerical and other employes and assistants as it may deem necessary for the proper transaction of its business, and shall fix their salaries, subject to the amount appropriated for the purposes of this act. (Act Apr. 22, 1933, c. 430, §8.)

5494-36½h. Secretary of State to furnish offices.—The Secretary of State shall provide suitable offices for the commission in the city of Saint Paul, Minnesota, and the commission may maintain offices in any other city in the State of Minnesota, that the commission may designate, and may incur, subject to the amount appropriated for the purposes of this Act, the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act, and the general promotion of aeronautics within the State. (Act Apr. 22, 1933, c. 430, §9.)

5494-36½i. Duties of commission.—It shall be the duty of the Commission to foster air commerce within the State of Minnesota and the Commission shall have supervision over the aeronautical activities and facilities within the State, which authority shall include supervision and control over all airports, landing fields, emergency landing strips, air instruction, air marking, air beacons, and all other air navigation facilities, and the registration of all pilots and aircraft. Accordingly the commission is empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation, and use, of all airports, landing fields, or emergency landing strips. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary governing the curriculum, equipment, personnel, and operation and management of all air instruction, for the purpose of protecting the health and safety of students receiving or to receive such instruction, and insuring, so far as may be, the public safety through the proper training and instruction of student aviators. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public

safety and safety of those engaged in aeronautics, and for the promotion of aeronautics, governing the establishment, location, maintenance and operation of all air markings, air beacons, and other air navigation facilities. The commission is further empowered to prescribe such reasonable air traffic rules and other regulations as it shall deem necessary for public safety and the safety of those engaged in aeronautics, and for the promotion of aeronautics; provided, however, that all rules and regulations prescribed by the commission under the authority of this section shall not be inconsistent with the then current Federal legislation governing aeronautics and the regulations duly promulgated thereunder. (Act Apr. 22, 1933, c. 430, §10.)

5494-36½j. Same.—The commission shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interests of those engaged in all phases of the industry and of the general public and of promoting aeronautics. Accordingly, the commission is empowered to expend any or all of the moneys allocated to, and deposited in, the State Aviation Fund, for the acquisition or enlargement by purchase, grant, lease, condemnation, or other means, and for the construction, operation and maintenance of, airports, landing fields, or emergency landing strips within this State, and/or of other aeronautic facilities or services within this State for the safety and advancement of aeronautics, which shall include the joint establishment or provision of such aeronautic facilities or services in cooperation with other State or Federal department or with other political subdivisions of this State. (Act Apr. 22, 1933, c. 430, §11.)

5494-36½k. Airport operators to make application for approval—licenses.—Within sixty days after the commission is created, all owners and/or operators of all airports, landing fields, air schools, and flying clubs, and the owners and/or operators of all air beacons and air navigation facilities, shall make application to the commission for its approval of such airport, landing field, air school, flying club, air beacon, or other air navigation facility, and the commission shall immediately consider and pass upon such applications. Within the same period all pilots and owners and/or operators of all aircraft shall register the Federal License of said airmen and of said aircraft in such manner as the commission may by regulation prescribe. All proposed airports, landing fields, air schools, flying clubs, air beacons, or other air navigation facilities shall first be approved by the commission before they or any of them shall be so used or operated. It shall be unlawful for any airport, landing field, air school, flying club, air beacon, or other navigation facility to be used or operated without the approval of the commission; and it shall be unlawful for air aircraft, except in case of emergency, to land upon or take off from any area in the State of Minnesota, other than an airport, landing field, or emergency landing strip; provided, however, that no license, rule, order, or regulation promulgated under the authority of this section or of this entire Act shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the Government of the United States or by this State, by cities of the first class or any department thereof, except that in the conduct of such municipal airports, landing fields or emergency landing strips, the governing body thereof shall not prescribe rules and/or regulations contrary to current legislation of the State of Minnesota or of the federal government. The commission is hereby authorized to issue a certificate of its approval in each case and to make the following charges therefor:

For the issuance of each certificate of registration of each Federal license for pilots and aircraft, no fee shall be charged.

For issuance of each annual airport license, \$10.00.
For issuance of each annual landing field license, \$10.00.

For issuance of each annual air school license, \$10.00.

For issuance of each annual flying club license, no fee shall be charged.

For issuance of each annual air beacon license, no fee shall be charged.

For issuance of each annual other air navigation facility license, no fee shall be charged. (Act Apr. 22, 1933, c. 430, §12.)

5494-36 1/2 l. Commission may conduct investigation.—The commission, or any commissioner, or officer of the commission designated by the commission, shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this Act, and all accidents in aeronautics within this State. All hearings conducted by the commission shall be open to the public. Each commissioner, and every officer of the commission designated by it to hold any inquiry, investigation, or hearing, shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of this Act, the Minnesota aeronautics commission, or its authorized representative, may invoke the aid of any Court in this State. The court may thereupon order the witness to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Any failure to obey the order of said court may be punished by the court as a contempt thereof. (Act Apr. 22, 1933, c. 430, §13.)

5494-36 1/2 m. Conduct of investigation.—In order to facilitate the making of investigations by the Minnesota aeronautics commission, in the interest of the public safety and the promotion of aeronautics, the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceedings growing out of any matter referred to in said investigation, hearings, or report thereof, nor shall any commissioner or employe of the Minnesota aeronautics commission be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, and, further, no commissioner or employe of the Minnesota aeronautics commission shall be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. (Act Apr. 22, 1933, c. 430, §14.)

5494-36 1/2 n. Commission to keep copy of rules and regulations on file.—The commission shall keep on file with the Secretary of State, and at the principal office of the commission, a copy of all their rules and regulations, for public inspection. On or before the thirty-first day of December, in each year, the commission shall make to the Governor a full report of its proceedings for the year ending the first day of December in each year, and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable. (Act Apr. 22, 1933, c. 430, §15.)

5494-36 1/2 o. Commission to enforce act.—It shall be the duty of the commission, its members and employes, and every county and municipal officer charged with the enforcement of State and municipal laws, to enforce, and assist in the enforcement of this Act. The commission is further authorized in the name of "The State of Minnesota" to enforce the provisions of this act by injunction in the District Courts of this State. Other departments and political subdivisions of this State are further authorized to cooperate with the Minnesota aeronautics commission in the develop-

ment of aeronautics and aeronautic facilities within the State. (Act Apr. 22, 1933, c. 430, §16.)

5494-36 1/2 p. Powers of commission.—In any case where the commission rejects an application for permission to operate or establish an airport, landing field, air school, flying club, air beacon, or other air navigation facilities, or in any case where the commission shall issue any order requiring certain things to be done, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed.

In any case where the commission may deem it necessary it may order the closing of any airport, landing field, or order any air school, flying club, or air beacon, or other air navigation facility to cease operations until it shall have complied with the requirements laid down by the commission. To carry out the provisions of this Act the Minnesota aeronautics commission and any officers, State or municipal, charged with the duty of enforcing this Act, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where such airports, landing fields, air schools, flying clubs, air beacons, or other air navigation facilities are operated. Any order made by this commission pursuant to this Act shall be served upon the interested person by registered mail or in person before such order shall become effective. (Act Apr. 22, 1933, c. 430, §17.)

5494-36 1/2 q. Appeal to District Court.—Any person against whom an order has been entered may within thirty days after the service thereof appeal to the District Court of the county in which any part of the property affected by the order is located, for the purpose of having the reasonableness or lawfulness of the order inquired into and determined. (Act Apr. 22, 1933, c. 430, §18.)

5494-36 1/2 r. Rights waived.—If no appeal is taken from the order of the commission within the period fixed, the party against whom the order was entered, shall be deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by a court and there shall be no trial of that issue in any court in which suit may be instituted for the penalty for failure to comply with the order. (Act Apr. 22, 1933, c. 430, §19.)

5494-36 1/2 s. Violation a misdemeanor.—Any person failing to comply with the requirements of, or violating any of the provisions of this Act, or the rules and regulations for the enforcement of this Act made by the Minnesota aeronautics commission, shall be guilty of a gross misdemeanor and punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than ninety days, or both. (Act Apr. 22, 1933, c. 430, §20.)

5494-36 1/2 t. State aviation fund created.—There is hereby created a fund to be known as the "State Aviation Fund." All moneys received from the licensing of airports, landing fields, air schools, or other licenses issued under the provisions of this Act, shall be paid into the State Treasury and credited to such fund. (Act Apr. 22, 1933, c. 430, §21.)

5494-36 1/2 u. Funds to be used for expenses of commission.—Any monies or fees coming into the hands of said Commission may be used for the necessary expenses of the Commission essential to the carrying out of this act but no overdraft shall be created by reason of any such expenditures. (Act Apr. 22, 1933, c. 430, §22.)

5494-36 1/2 v. Provisions separable.—If any provision of this Act is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby. (Act Apr. 22, 1933, c. 430, §24.)

5494-36½ w. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this Act are hereby repealed. (Act Apr. 22, 1933, c. 430, §24.)

MUNICIPAL FLYING FIELDS

5494-37. Cities and villages may equip air fields.—The governing body of any city, village, or town in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of air planes and other aircraft either within or without the limits of such cities, villages, and towns, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such city, village, or town. (Act Apr. 17, 1929, c. 217, §1.)

In cities of the first class, see §§1626-1 to 1626-16.

5494-38. County board may acquire airports.—The board of county commissioners of any county in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of such counties, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county. That any power or authority granted to any county or other political subdivision of the state by the provisions of this act, may in any county of this state having at any time an area of over 5,000 square miles and a population of over 200,000 inhabitants be exercised in co-operation with the governing body of any other such political subdivision in such county, as well as separately, in order to carry into effect the powers herein granted, whenever the governing body or bodies of any such political sub-division shall determine it to be in the public interest. Any co-operative agreement entered into between the governing bodies of any two or more such political subdivisions, either for the carrying on or abandonment of any airport or landing field in such county shall be binding upon their respective political sub-divisions.

That any payments heretofore made by any such county having over 5,000 square miles of area and a population of over 200,000 inhabitants, to any other political sub-division of said county, is hereby legalized and declared valid in all respects; provided that no such county or political subdivision in such county shall, jointly or separately, have authority to spend in any calendar year more than \$50,000, in order to carry into effect the powers herein granted. Any such expenditures shall be included in, and shall not be in excess of, any limitations on expenditures of such political subdivision now fixed by law. (Laws 1929, c. 217, §2; Apr. 25, 1931, c. 354.)

5494-39. May exercise power of eminent domain.—Any lands acquired, owned, controlled, or occupied by such cities, villages, towns, or counties for the purpose enumerated in Sections 1 and 2 [§§5494-37, 5494-38] hereof shall and are hereby declared to be acquired, owned, controlled, and occupied for a public purpose and as a matter of public necessity, and such cities, villages, towns, or counties shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity. (Act Apr. 17, 1929, c. 217, §3.)

5494-40. May acquire lands by gift, purchase, or otherwise.—Private property needed by any city, village, town, or county for an airport or landing field may be acquired by gift or by purchase if the city, village, town, or county is able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by the law under which the city, village, town or county is authorized

to acquire real property for public purposes, other than street purposes, or if there be no such law, in the manner provided for and subject to the provisions of the condemnation law. The purchase price or award for real property acquired for an airport or landing field may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds of the city, village, town, or county issued as hereinafter specified. (Act Apr. 17, 1929, c. 217, §4.)

5494-41. May maintain and operate flying fields.—The governing body of any city, village, town, or county which has established an airport or landing field and acquired, leased, or set apart real property for such purpose may construct, improve, equip, maintain, and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance, and operation thereof, in any suitable office, board, or body of such city, village, town, or county. The expenses of such construction, improvement, equipment, maintenance, and operation shall be a city, village, town, or county charge as the case may be. The governing body of any city, village, town, or county may adopt regulations and establish fees or charges for the use of such airport or landing field, or may authorize any officer, board or body of such village, city, town, or county having jurisdiction to adopt such regulations and establish such fees or charges, subject, however, to the approval of such governing body before they shall take effect. (Act Apr. 17, 1929, c. 217, §5.)

5494-42. Annual appropriation.—The governing body of any city, village, town, or county to which this act is applicable having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such city, village, town, or county a sum sufficient to carry out the provisions of this act, not exceeding, however, the taxing limits now provided by law. (Act Apr. 17, 1929, c. 217, §6.)

5494-43. Application.—The provisions of this act shall apply to all cities of the state, excepting all cities of the first class, including every city now or hereafter having and operating under a home rule charter adopted under, and pursuant to Section 36, of Article 4, of the State Constitution; provided, however, that this act shall not apply to any privately owned or controlled airport and aviation field. (Act Apr. 17, 1929, c. 217, §7.)

5494-44. Bonds may be issued.—Any such city, village, town, or county is hereby authorized and empowered to issue its negotiable general obligation bonds for the purpose of acquiring, establishing, constructing, enlarging or improving such airport or landing field and a site therefor in the manner and within the limits prescribed by Chapter 10, General Statutes, Minnesota 1923, and Chapter 131, Laws of 1927 [§§1938-3 to 1938-13] for the issuance of bonds for the acquisition of other revenue producing public conveniences. Such bonds shall be sold in the manner prescribed by Section 1943, General Statutes 1923, as amended. The amount of any such bonds at any time outstanding shall be included in computing the net debt of the city, village, town, or county issuing the same for the purpose of computing any limitation of its indebtedness prescribed by law or by its charter. (Act Apr. 17, 1929, c. 217, §8.)

5494-45. Acts legalized.—The acquisition of property within or without the limits of any such city, village, or town for airports or landing fields, by purchase or gift, heretofore made by any such municipality, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective. (Act Apr. 17, 1929, c. 217, §9.)

5494-46. May acquire air rights.—Where necessary in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the

provisions of this Act, the legislative bodies of counties, municipalities, and other political subdivisions of this State are hereby granted authority to acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided by law for the acquisition of the airport or landing field itself or the expansion thereof. (Act Apr. 20, 1931, c. 214, §1.)

5494-47. May acquire for any term.—The legislative bodies of counties, municipalities, and other

political subdivisions of this State are hereby authorized to acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and to place, operate, and maintain suitable lights for the nighttime marking of buildings, or other structures or obstructions interfering with the safe operation of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this Act. Such rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided by law for the acquisition of the airport or landing field itself or the expansion thereof. (Act Apr. 20, 1931, c. 214, §2.)

CHAPTER 32

Preservation of Game and Fish

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates a new department of conservation, to which is transferred the powers of the commissioner of game and fish.

PART I.—TITLE TO WILD ANIMALS: TAKING: TRANSPORTATION

5495. Title to wild animals—Taking.

The provisions of the game law are to be construed according to the fair import of their terms, viewed in the light of the purpose of the law. 177M483, 225NW430.

5496. Ownership in state.

172M469, 215NW837; note under §5547.

5497. Taking of wild animals restricted.

Op. Atty. Gen., May 24, 1933; note under §5625-1. The game law does not permit the taking of waterfowl from an artificial blind constructed in public waters of a lake upon an artificial embankment. 177M483, 225NW430.

Frogs cannot be imported into Minnesota for breeding purposes but may be imported for food purposes. Op. Atty. Gen., June 8, 1933.

5498. Manner of taking game.—Birds and quadrupeds protected by law shall be taken only in the daytime with a gun not larger in bore than a ten gauge fired from the shoulder, or with a bow and arrow, except that upland game birds and quadrupeds may be taken with a rifle or pistol. It shall be unlawful to use any kind or type of silencer on any firearm, or to own or possess any kind or type of silencer for a firearm, or to own or possess any firearm equipped or designed to have a silencer attached thereto. No person while in a motor vehicle shall take game, nor discharge any firearm therefrom at any wild animal, nor carry a gun or other firearm, except a pistol or revolver, in a motor vehicle unless the same be unloaded in both barrels and magazine and taken apart or contained in a case. Traps for the purpose of taking fur bearing animals protected by law may be used as herein provided but traps shall not be staked or set in any manner during the closed season for the same. A person may take game birds during the open season with the aid of a dog, unless specifically prohibited herein. ('19, c. 400, §4; '25, c. 380, §1; 1929, c. 170; Apr. 25, 1931, c. 399, §1.)

It is illegal to set traps in the evening before the day on which season opens. Op. Atty. Gen., Feb. 14, 1929.

"Day time" as applied to birds and quadrupeds which cannot be classed as migratory game birds is the period between sunrise and sunset. Op. Atty. Gen., Dec. 23, 1931.

"Day time" so far as migratory game birds are concerned is determined by section 6554. Op. Atty. Gen., Dec. 23, 1931.

5499. Manner of taking fish.—Fish, unless otherwise specifically permitted by law, shall be taken only by angling. It shall be unlawful to take fish of any kind in any manner by the use or with the aid of artificial lights of any kind. ('19, c. 400, §5; '23, c. 426, §1; '25, c. 380, §1; Apr. 27, 1929, c. 417, §1.)

1. No person shall set, place or use any snag line or snag pole, snag hook, or parts thereof, or cluster of fishhooks that might be attached to same,

designed to be placed in or drawn through the water for the purpose of catching or drawing such hooks into the body of fish, provided that the use of one trolling spoon or one artificial bait is permitted.

2. Violation of this chapter shall be a misdemeanor. (Added Apr. 21, 1933, c. 392, §23.)

The title to Act Apr. 21, 1933, c. 392, does not enumerate §5499 as one of the sections amended. See note under §5505.

It is legal for a person to use a floating fish house in spearing fish. Op. Atty. Gen., Apr. 16, 1931.

This section is subject to the proviso of Laws 1931, c. 323 [§5574, herein], permitting the use of lights in spearing rough fish under a permit from the commissioner of game and fish. Op. Atty. Gen., May 1, 1931.

One may not lawfully make use of an artificial light permanently fixed upon a dock for the convenience of persons using the lake during the night. Op. Atty. Gen., Oct. 26, 1931.

Laws 1933, c. 49, does not repeal this section as amended by Laws 1929, c. 417, except as to counties enumerated in section 2. Op. Atty. Gen., Apr. 10, 1933.

Artificial lights may not be used as an aid in spearing rough fish except in counties enumerated in Laws 1933, c. 49, §2. Op. Atty. Gen., Apr. 10, 1933.

A plug lighted by bulb and battery from within may not be used. Op. Atty. Gen., June 14, 1933.

5500. Limits of game and fish—Wanton waste.—No person shall wantonly waste or destroy wild animals except as otherwise expressly permitted by law. The catching, taking or killing of more than fifteen game birds by any one person in any one day, or the catching, taking or killing of more than twenty-five fish by any one person in any one day, except fish lawfully caught, taken or killed with licensed nets, as by this chapter permitted, shall be deemed a wanton waste. No person shall, after taking or killing any protected wild animal, abandon or permit the edible part of the carcass thereof to waste or decay, provided this shall not prevent the manufacture of fish meal or other animal food out of lawyer hurbot or eelpout or carp lawfully taken, or the sale or transportation of such fish meal or food. ('19, c. 400, §6; '25, c. 380, §1; Apr. 27, 1929, c. 417, §2.)

Section 5579 governs over §5500 as to limits on fish. Op. Atty. Gen., Aug. 22, 1933.

5503. Possession of imported game during closed season.—Except as expressly permitted by law, no person shall have in possession in this state any wild animal or part thereof which has been caught, taken or killed outside of this state at a time when it is unlawful to have such wild animals in possession if caught, taken or killed in this state or which has been unlawfully caught, taken or killed outside of this state, or unlawfully shipped therefrom into this state. ('19, c. 400, §9; '21, c. 44, §2; Apr. 27, 1929, c. 417, §3.)

A fisherman with licenses from both Minnesota and Wisconsin violated no law in catching seven bass on the Wisconsin side of the Mississippi River, and three more on the Minnesota side. Op. Atty. Gen., Aug. 18, 1930.

Op. Atty. Gen., May 24, 1933; note under §5625-1.

Sale of Canadian fish during closed season is illegal. Op. Atty. Gen., June 2, 1933.