

# GENERAL STATUTES

OF

# MINNESOTA

1913

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weeds or grasses are growing or standing upon lands within his jurisdiction in violation of law, he shall forthwith inspect the premises; and, if the complaint be well founded, he shall cause written notice to be served upon the person permitting the same, directing him to comply with the provisions of this chapter in respect thereto within six days after such service. (2377)

**5170. Service, how made—Non-residents.**—All notices herein provided for may be served by any citizen of the town or municipality in which the land is situated. Such service shall be upon the occupant, if any there be, otherwise upon the owner or person in charge of the land, and shall be personal and by copy whenever practicable. If there be no person within the county upon whom service can properly be made, of which the certificate of the officer serving such notice shall be prima facie evidence, the subsequent procedure shall be the same as though service had been made, and the notice ignored. (2378)

**5171. Failure of owner—Authorities to destroy—Expenses.**—If the notice be not obeyed within six days, the overseer of roads, or the official in charge of the streets in municipalities, as the case may be, shall forthwith destroy such weeds or grasses, and make report thereof to the town or municipal clerk, with an itemized account of his services and expenses in so doing. He shall be allowed two dollars per day for the time of his necessary employment, and for men and teams employed he may allow the rates paid for labor upon roads or streets. Such expenses shall be paid by the town or municipality out of the road or street funds, and, unless the sum be repaid by the owner or occupant before October 1 next ensuing, the clerk shall certify the amount thereof, with a description of the premises to be charged, to the county auditor, who shall extend the same upon the tax list, as an additional tax upon said land. But if the land for any reason be exempt from general taxation, the amount of such charge may be recovered of the owner in a civil action, with costs. (2379)

**5172. Damage to growing crops—Agreement, etc.**—When noxious weeds are so intermixed with a growing crop that they cannot be eradicated without serious damage to such crop, a written agreement may be made by the owner or occupant with the officer, providing for the destruction of the weeds upon specified parts of the land, and for the proper treatment of the remainder after the crop has matured. And so long as such agreement is performed by such owner or occupant in good faith, he shall be exempt from the penalties of this chapter. All officials charged with the enforcement of this chapter may go upon lands infested with noxious weeds, or suspected thereof, for any purpose necessary to such enforcement; but any unnecessary damage done thereon shall be paid by the municipality or town. (2380)

**5173. Penalties—County attorney to prosecute—Disposal of fines.**—Every person who shall violate any provision of this chapter, or refuse to comply with any notice given pursuant thereto, and any officer neglecting to perform any official duty imposed upon him thereby, shall be guilty of a misdemeanor. Upon the request of any taxpayer, the county attorney shall prosecute any such offender. All fines collected under its provisions shall be paid into the treasury of the town or municipality in which the offence was committed. (2381)

## CHAPTER 38

### INSECTS AND PLANT DISEASES

**5174. State entomologist—Powers and duties.**—The entomologist of the agricultural experiment station of the state university shall be the state entomologist. He shall appoint necessary assistants, who may perform any of the duties of his office, fix their compensation, and may procure the proper instrumentalities for his work. He shall combat chinch bugs, grasshoppers, and other insect pests, and all dangerous contagious plant diseases. He shall prepare the means of destroying insects which are injurious to crops,

and, when he deems it proper, may supply the same gratuitously to the farmers. He shall report to the governor on or before December 1 each year concerning his official acts. (2382)

**5175. State entomologist to be inspector of nurseries—Powers and duties—Nursery stock defined—Dangerous insects and diseases, etc.**—That the state entomologist is hereby designated as state inspector of nurseries and is authorized either himself or by deputies duly appointed by him to inspect all premises in Minnesota where nursery stock is grown or held for sale, and further to inspect all orchards or any premises whatsoever within the state, where he has reason to suspect the presence of injurious insects or injurious and contagious plant diseases. Nursery stock shall be regarded as including all field-grown plants (except herbaceous annuals) of any kind, also trees, field-grown shrubs, vines, cuttings, buds, grafts and scions. For this purpose he or his deputy or deputies shall have free access to any field, ground, packing ground, buildings, cellars and other places where the carrying out of the provisions of this act shall make necessary. The state inspector of nurseries is empowered and required to grant certificates upon request to such nurseries as he may find free from injurious insects and contagious plant diseases. Such certificates shall be good for one year unless revoked by him. This inspection of nurseries shall take place between May 1st and September 30th, and at such other times as may be necessary to comply with the provision of this act. Nurserymen or others having stock to inspect shall make application to the state nursery inspector for the inspection of stock as far as practicable on or before May 1st of each year. It shall be the duty of the inspector or his deputy to make the inspection as soon thereafter as possible.

For inspection of nurseries a fee of five dollars (\$5.00) per annum shall be paid at the time of application or before certificate is issued. If a dangerous insect, pest or plant disease is found by the inspector on the premises above described and if in his judgment such pest or disease can be eradicated he may direct the owner or his representative in writing what means shall be employed; in case any trees, shrubs or plants are so infested that treatment would be ineffectual he may direct the owner or his representative to have them destroyed. Said order shall be issued in writing. If the order be not obeyed within ten days after service thereof, the state inspector shall cause the work to be done and render to the owner or persons in charge an itemized bill of the cost; and if such cost shall not be paid within sixty days thereafter the bill shall be reported to the county attorney who shall forthwith collect same in a civil action in the name of the state, and shall turn same over to the state treasurer to be credited to the inspection fund. ('13 c. 206 § 1)

Section 11 repeals R. L. §§ 2383, 2384.

**5176. Same—Nursery stock brought into state to be certified, etc.**—No person shall bring into the state for sale or use therein or re-shipment any trees, plants, vines, cuttings or buds or other "nursery stock" unless it be accompanied by the certificate from the inspector or other proper official of the state from which it came, that it has been inspected and found free from any of the pests or diseases referred to. Such certificates shall be prima facie evidence of the facts therein stated but the entomologist may if deemed necessary, inspect such stock and proceed with respect thereto as provided for in section 1 [5175]. ('13 c. 206 § 2)

**5177. Same—Copies of foreign certificate to be filed**—A copy of the state inspection certificate granted to any firm or firms in any other state, territory, or the District of Columbia, shall be on file with the Minnesota inspector before any such firm or firms shall make shipment of nursery stock to be sold or distributed in the state of Minnesota. ('13 c. 206 § 3)

**5178. Same—Intrastate shipments**—All shipments from any point or points in the state of Minnesota to other points within the state must be accompanied by certificate of inspection on each package. ('13 c. 206 § 4)

**5179. Same—Carriers not to transport unless tagged**—Railroad and express companies are hereby prohibited from accepting stock not tagged with certificate as above stated (and must promptly notify the shipper. If the shipper does not furnish a certificate, such companies shall report said fact with

the name and address of party offering said stock for shipment to the state inspector). ('13 c. 206 § 5)

**5180. Same—Foreign grown stock to be inspected—**Foreign grown stock imported into Minnesota under the provision of the federal quarantine law is regarded as coming under the definition of nursery stock and must be inspected at points of destination. It shall be unlawful for any party or parties to open any package containing such stock from a foreign country unless the inspector or deputy is present. It shall be the duty of the inspector to be present in person or by deputy when notified at least forty-eight hours in advance of the opening of such package. ('13 c. 206 § 6)

**5181. Same—Dealers and florists—Special certificates—**Dealers or florists not owning nurseries and shipping by post, freight, express or otherwise may obtain from the state entomologist a special certificate in order to comply with the federal and state laws. Such certificate will be granted only to stock purchased in Minnesota from an inspected nursery, or to foreign stock inspected in Minnesota. ('13 c. 206 § 7)

**5182. Same—Penalties—**Failure to comply with any of the provisions of this act shall be subject to the penalties provided in section 2389, chapter 38, Revised Laws of Minnesota, 1905 [5189]. ('13 c. 206 § 8)

**5183. Same—Annual report—**The state inspector shall be required on or before December 1st of each year to submit a report and financial statement to the governor of the state, covering the year's work. ('13 c. 206 § 9)

**5184. Same—Appropriation—Fees—**For all expenses necessary to carry out the provisions of this act there is hereby appropriated from the state treasury from moneys not otherwise appropriated the sum of three thousand dollars (\$3,000.00), for the fiscal year ending July 31st, 1914, and the same amount for the fiscal year ending July 31st, 1915. All fees collected hereunder shall be paid into the treasury of the state of Minnesota and added to the state entomologist's appropriation for combating injurious insects. ('13 c. 206 § 10)

**5185. Grasshopper infection—Hearing and notice—**Whenever written complaint is made to a county board that any tract of land in the county is so infested with grasshopper eggs as to threaten the destruction of grasses or crops in the vicinity thereof, the board shall fix a time and place for a hearing thereon, and cause notice of such hearing to be served upon the owner or person in charge of such infested land at least ten days prior thereto. (2385)

**5186. Same—Order to plow—**Upon the hearing, which may be adjourned from time to time by the board, the certificate of the entomologist, stating that he has examined the tract involved, and giving the result of such examination, shall be prima facie evidence of the facts therein stated. The board shall hear all evidence offered by interested parties, and if, in its opinion, the tract is so infested, it shall make an order, giving the date of the hearing, the substance of the complaint, and the decision of the board thereon, and directing the owner or person in charge to plow any designated part or all of said land before a date therein prescribed. The date shall be so fixed as to allow a reasonable time for such plowing after service of the order. (2386)

**5187. Same—Service of order—**The auditor shall immediately cause the order to be served upon the owner or occupant of the land therein described. If the land be unoccupied, and the owner be a non-resident of the county, service may be made upon any person having charge of such land and residing in the county. If the owner be a non-resident of the state, or his residence be unknown, and he have no known agent in the county, two weeks' published notice of such order shall be given. (2387)

**5188. Same—Failure to obey—**If the order be not complied with, the board shall cause the infested land to be plowed at the expense of the county. In case such plowing shall be of value in the raising of a crop during the season immediately following, the person so benefited shall be liable to the county for such value. When the board is of the opinion that such liability exists, it shall determine the amount thereof, and its determination shall be prima facie evidence of such value. It shall direct the auditor to demand

payment of the amount, and, if it be not paid upon demand, the county attorney shall bring a civil action therefor in the name of the county. (2388)

5189. **Fines and penalties**—All moneys in excess of costs collected in actions brought under this chapter in the name of the state, and all fines collected thereunder shall be turned into the state treasury, and added to the sums appropriated for the purposes hereof. Any person who shall violate any of the provisions of this chapter, or hinder the enforcement of any of them, shall be guilty of a misdemeanor. (2389)

5190. **Standing appropriation**—Five thousand dollars, or so much of said sum as may be necessary, is hereby appropriated annually out of the general revenue fund for the carrying out of the provisions of this chapter. (2390)

See §§ 48, 49.

## CHAPTER 39

### BOUNTIES AND REWARDS

5191. **For timber growing**—Every person who shall plant one acre or more of land with forest trees of any kind other than black locust, and shall keep such trees growing in a thrifty condition, and not more than twelve feet apart either way, replacing yearly such as may die, shall receive from the state two dollars and fifty cents per acre therefor for six successive years, not exceeding, however, twenty-five dollars in any one year. This section shall not apply to any railway company, to any person who has already received such compensation, nor to any person planting trees in compliance with an act of Congress approved March 3, 1873, relating to the growth of timber on western prairies, or any act amendatory thereof. For the purpose of paying such compensation, the sum of twenty thousand dollars is annually appropriated from the revenue fund. (R. L. § 2391, amended '13 c. 76 § 1)

As to standing appropriations, see §§ 48, 49.

5192. **Claim and proof**—The claimant shall file with the county auditor a plat giving the government subdivision, and the position of the trees thereon. If the number of trees be increased, supplemental plats shall be filed. He shall show his ownership of the land, and make oath to the planting and maintaining of the trees as prescribed in § 5191; and his proof shall be supported by the affidavit of at least two freeholders, residing in the same town, who have personal knowledge of the facts. Such proofs shall be filed with the county auditor between July 1 and July 15 of the year for which compensation is claimed. (2392)

5193. **Duty of assessor**—The assessor of every town, at the time of making his assessment, shall ascertain if trees have been planted therein for which compensation is claimed under this chapter, and, if any such be found, he shall personally examine the same, and report the area planted and the condition of the trees to the auditor when the assessment books are returned. (2393)

5194. **Proofs sent to state auditor**—Before August 1 the auditor shall compare the proofs furnished by the claimant with the assessor's report, and, if they correspond in substance, he shall immediately forward to the state auditor the original proofs of claim, and a certified list of all plats filed. (2394)

5195. **Auditor to issue warrant**—The state auditor shall audit all such claims, and on the first Monday of October in each year shall issue his warrant to the several claimants for the amount to which each is entitled; but, if the aggregate of compensation due to all such claimants shall exceed the appropriation therefor, he shall distribute the available amount amongst them pro rata, which distribution shall relieve the state from further obligation to such claimants for the year. (2395)

5196. **Horse stealing**—A reward of two hundred dollars shall be paid for procuring the arrest and conviction of any person charged with horse stealing. The claimant thereof shall apply to a judge of the court wherein the conviction was had, within twenty days thereafter, and not later, for an order directing