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# GENERAL STATUTES OF MINNESOTA

## SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES  
AND OTHER LAWS OF A GENERAL AND PERMANENT  
NATURE, ENACTED BY THE LEGISLATURE  
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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This act shall not in any way abridge the provisions found in sections 5167-5173, both inclusive, General Statutes of Minnesota, 1913, but shall be considered; insofar as that intent is manifest, additional powers, duties and obligations upon the officers and persons referred to. ('17 c. 394 § 2)

**5168. Noxious weeds in highways—Duty of abutters—**For all purposes of this chapter, the half of any road, street or alley, lying next to the lands abutting thereon, shall be considered a part of such land. No person or corporation owning, occupying or controlling land shall permit any noxious weed, or any white daisy, snap-dragon, or toad-flax, sow-thistle, sour dock, yellow dock or other weeds or grasses to produce seed upon such adjoining half of the highway, street or alley. It shall be the duty of every person or corporation owning, occupying or controlling land abutting on any public highway, street or alley, to cut or destroy, or cause to be cut or destroyed, all noxious weeds and grasses herein specifically named, and other weeds and grasses upon such adjoining half of the public highway, street or alley at least twice each year, to-wit; once between July 1st and July 15th, and once between October 1st and October 15th of each year. (Amended '17 c. 229 § 1)

**5169. How and by whom enforced—Notice—**It shall be the duty of the road overseers of each organized township, and the mayor of [or] president of the council of each municipality, to give the notices provided for in this chapter, and cause the provisions hereof to be enforced. He shall inspect or cause to be inspected every public highway, street and alley within his district, or municipality, as the case may be, as soon as may be, and not later than ten days after the time herein fixed for cutting or destroying of the weeds and grasses herein mentioned, and shall cause written notice to be served upon all persons or corporations not complying with the provisions of this chapter to comply with the provisions thereof and to cut the grasses and weeds herein specified, within six days after such notice is served. (Amended '17 c. 229 § 2)

**5170. Notice, upon and how served, etc.—**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 wherever 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, then notice shall be sent by mail, postage prepaid, to the person who last paid tax upon the land, the name and address of such taxpayer to be furnished by the county treasurer of the county in which such land is located. (Amended '17 c. 229 § 3)

## CHAPTER 38

### INSECTS AND PLANT DISEASES

**[5175—]1. Trees, plants or shrubs from which diseases or insects may spread—Powers and duties of state inspector of nurseries, etc.—Appraisal—Duty of carriers—Penalty—**When any tree, shrub or plant, not itself diseased or infested, which is a host for any organism inducing a plant disease, new to or not heretofore widely prevalent or distributed within or throughout this state, or host for any destructive insect, new or not heretofore widely prevalent or widely distributed throughout this state is situate within three thousand feet of any tree, plant or shrub which is infested with any such organism or insect, the state inspector of nurseries may for the purpose of preventing the spreading of such organism or insect, cause such tree, plant or shrub not itself so diseased or infested, to be destroyed as hereinafter provided.

(a) No tree, plant or shrub not itself diseased, shall be ordered destroyed without the approval in writing of the order therefor signed by a majority of

a committee consisting of the experiment station entomologist; president of the Minnesota Horticultural Society and by the director of the Minnesota Agricultural Experiment Station and by the plant pathologist of the Minnesota Agricultural Experiment Station if a plant disease is concerned, or without opportunity being given to owner of such trees, plants or shrubs for an open hearing if he objects to such action on the part of the inspector.

(b) When the destruction of any such trees, plants or shrubs is determined upon the state inspector of nurseries shall by notice in writing, approved as provided for in subdivision "A" of this section, direct the owner or lessee of the land on which such plants, trees or shrubs are situate to destroy as many of such plants as the state inspector may deem necessary, within such period of time as shall be therein specified, provided, however, such tree, plant or shrub shall not be required to be destroyed until the value thereof shall have been appraised as hereinafter provided.

(c) Immediately upon the issuance by the state inspector of nurseries of an order for the destruction of any trees, plants or shrubs, other than trees especially valuable for lumber, he shall designate three or more persons to be selected from the list of appraisers hereinafter provided for in subdivision H of this section, to appraise the value of such trees, plants or shrubs.

(d) In case the order issued by the state inspector of nurseries directs the destruction of any tree, or trees chiefly valuable for timber purposes, the same shall be appraised as hereinafter provided for by the state forester, the assistant state forester or such suitable employé of the state forester's department as shall be designated in writing by the state forester.

(e) It shall be the duty of the appraisers so appointed to forthwith take and subscribe an oath to fairly and honestly determine the value of the trees, plants or shrubs so ordered to be destroyed and determine the fair cash value thereof at the place and in the condition the same may be in at the time of the issuance of the order. The appraisers so appointed shall receive as compensation for their services such sum, not to exceed six dollars per day, as shall be fixed by the state inspector of nurseries, for each day necessarily employed in the performance of their duties, together with the necessary traveling expenses and hotel bill, incurred in the performance of their duties provided, however, that no officer or employé of the state shall receive any compensation for the performance of the duties herein imposed, but shall be reimbursed for his actual and necessary expenses. Such compensation and expenses, when approved by the state inspector of nurseries shall be audited and paid by the state auditor from the appropriation made for the purposes of this act.

(f) The appraisers so appointed shall forthwith give notice to the owner or lessee of the land on which the trees, plants or shrubs ordered to be destroyed are situate of the time when they will visit the premises for the purpose of making their appraisal. Such owner or lessee shall at the time so specified, be given a full opportunity to be heard on the question of the value of the trees, plants and shrubs so ordered to be destroyed. The appraisers shall thereupon determine, as hereinbefore provided, the cash value of such trees, plants and shrubs and make and file with the state inspector of nurseries a report in duplicate of their appraisal and shall also give a copy thereof to the owner or lessee. The said reports shall each be signed by the appraiser. One of the copies thereof filed with such inspector shall be attached to a voucher which voucher after approval by the state inspector of nurseries, shall be transmitted to the state auditor for audit and after allowance by him the amount therein specified shall be paid from the money appropriated for the purposes of this act, to the owner of the trees, plants or shrubs ordered to be destroyed. The state inspector of nurseries shall attach to the voucher approved by him a certificate that the trees, plants and shrubs so appraised and specified in the voucher and appraisal have been destroyed in accordance with the order. The oath of the appraisers hereinbefore specified shall be attached to and filed with the copy of the appraisers' report filed with the state inspector of nurseries.

(g) Upon the delivery to him of the appraisers' report the owner or lessee of the land on which the trees, plants or shrubs ordered to be destroyed are situate, shall forthwith destroy the same in the manner directed by the state inspector of nurseries, and within the time as specified in subdivision B, and any owner or lessee who fails so to do within a period of five days after the expiration of said time specified in subdivision B shall be guilty of a felony and in addition to such criminal liability, the state inspector of nurseries may, after the failure of the owner or lessee for said five days to so destroy the same, cause the said trees, plants or shrubs to be destroyed at the expense of the owner, in the manner and as provided for in section 1 of this act [5175—1], and such expense in such case shall be deducted from the amount payable to the owner. Provided that said owner, lessee or representative shall not be guilty of a felony if within five days after receiving the notice for the destruction of such trees, plants and shrubs as provided for in subdivision B he shall notify said state inspector of nurseries in writing that he prefers to have said state inspector of nurseries destroy such trees, plants and shrubs as provided in this section.

(h) It shall be the duty of the executive board of the state horticultural society and the director of the experiment station each to furnish to the state inspector of nurseries a list of five practical horticulturists residing in several parts of the state who possess knowledge of the value of trees, plants and shrubs, from each of which the appraising committee is chosen.

(i) The state inspector of nurseries is hereby authorized and empowered to prohibit by proclamation the importation into this state of any plant, tree or shrub which has been grown or propagated in any state, province or country or in any place where it shall be determined by the said state inspector of nurseries after due investigation, that there exists and is prevalent to a dangerous extent, White Pine Blister Root or any other plant disease or destructive insect new to Minnesota which is liable to or capable of spreading to and infecting the plants, trees and shrubs of this state and which may be carried and transported to and into this state on or in trees, plants and shrubs there grown. It shall be the duty of said state inspector of nurseries upon the making and promulgation by him of any such proclamation to forthwith mail a copy thereof to each certified nurseryman and to each railroad company doing business in this state and to publish a copy thereof in a newspaper published at the city of Duluth and at the city of St. Paul, and any person, firm or corporation or common carriers which shall after thirty days from the reception of said notice introduce or transport into this state any tree, plant or shrub grown or propagated in the territory described in such proclamation, shall be guilty of a gross misdemeanor and in case the offender be a corporation, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars for each shipment so introduced into this state. ('13 c. 206, amended '17 c. 361 § 1)

**5181. Same—Dealers and florists—Certificate—**Dealers and 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 upon stock purchased from an inspected nursery or upon foreign stock inspected in Minnesota.

Provided that, before such certificate is granted, the dealer or florist requesting the same shall furnish a sworn affidavit that he will buy and sell only stock which had been duly inspected by an official state inspector and that he will maintain with the state entomologist a list of all sources from which he secures his stock. ('13 c. 206 § 7, amended '15 c. 244 § 1)