

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.

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RUNNING AT LARGE OF CERTAIN ANIMALS**7295. Permitting to run at large unlawful.**

Rule that owner of live stock is bound at his peril to keep them from straying on lands of others and is liable for such trespasses and any harm done to land possessor or members of his household without regard to negligence or scienter on his part, does not apply to dogs. Olson v. P., 206M415, 288NW856. See Dun. Dig. 275.

Where owner of sheep has his land enclosed by a woven wire fence on three sides and half of common boundary, he cannot be prosecuted by adjoining owner for permitting his sheep to run at large by crawling under five-wire fence maintained by complaining party, since he may be compelled to construct and maintain a woven wire fence. Op. Atty. Gen. (631h), Apr. 20, 1942.

7297-1. County board to license dogs. [Repealed.]

Act does not apply to a county which has not adopted the same. Olson v. P., 206M415, 288NW856. See Dun. Dig. 276.

7297-41. County board may establish system of licensing dogs.—Subdivision 1. The board of county commissioners of any county is hereby authorized to establish a system of licensing and regulating the running at large of dogs, except in cities of the first class, and create a live stock indemnity fund to be handled and disbursed as hereinafter provided.

Before regulating and licensing, there must be filed with the county auditor a petition signed by at least 25 per cent of the persons actually engaged in raising live stock, including poultry, in the county as shown by the assessors' records, requesting the board to establish such system. When such petition has been filed, the board of county commissioners shall establish such system; or, the board of county commissioners may by a majority vote on their own motion and without petition, establish such system. The board of county commissioners shall exclude from the operation of this act burroughs, second, third and fourth class cities if such city has in operation a satisfactory law regulating dogs running at large.

Subdivision 2. At any time after such system has been in effect for a period of two years from the date of its establishment, it may be revoked by a majority vote of the board of county commissioners, but provided that before such revocation the board shall hold a public hearing and give at least ten days' notice of such hearing by publication in at least one newspaper published or circulating in the county. (As amended Apr. 5, 1943, c. 294, §1.)

Owner of a dog was not liable where it voluntarily went upon property of another and jumped upon possessor, causing her to fall and to sustain person injuries, unless dog was vicious or had a propensity to cause such harm to owner's knowledge or notice. Olson v. P., 206M415, 288NW856. See Dun. Dig. 275.

County board may establish system immediately and charge a tax pro rata according to proportion of taxable year which remains after date of establishment. Op. Atty. Gen. (146d-2), March 11, 1940.

Upon filing of petition it is mandatory that county board establish system. Op. Atty. Gen. (146d-2), Feb. 28, 1941.

7297-42 Dogs must have licenses.—(1) In every county in which this act shall become operative every dog more than six months of age must have a license. The owner of any dog (the word "owner" when used in this act in relation to property in, or

possession of, dogs shall include every person who owns, harbors or keeps a dog) shall, on or before February 1st in each year, obtain a license for his dog, and shall pay for such license the fee prescribed by the county commissioners, which shall not be less than fifty cents nor more than one dollar for a male dog and not less than one dollar nor more than two dollars for a female dog; such payments to be made to the town, village or city clerk or deputy. The application for such license shall be in such written form as prescribed by the county auditor, and shall state the name, sex, breed, age, color and marking of the dog for which the license is sought. (As amended Apr. 5, 1943, c. 294, §2.)

(2) * * * * *

County board may not prorate license fee according to time of year when system is made effective, but same result may be reached by setting license fee for first year at less amount than for subsequent years. Op. Atty. Gen. (146d-2), Feb. 28, 1941.

7297-43. Assessor to list dogs—Kennels—Issuance of license.

Village assessor need not gather data mentioned in this section if system is not adopted. Op. Atty. Gen. (146a-2), Feb. 28, 1941.

7297-47. May seize dogs running at large.—(1) Any person may seize, impound or restrain any unlicensed dog which he may find running at large. The fact that a dog is without a license attached to a collar shall be presumptive evidence that the dog is unlicensed. The sheriff and his deputies, any marshal or constable or other police officer shall seize, impound or strain any dog for which no license has been issued and for which one is required. Any officer who shall seize, restrain, impound or kill any dog found in any place without a license as required under sections 2 to 12, inclusive, upon delivery of such dog or carcass and the proper disposal of the carcass and after making a report to the village, town or city treasurer of the village, town or city in which the dog was seized or killed, showing that the dog did not have a license, shall receive therefore a payment of two dollars, the same to be made from any funds in the village, town or city treasury not otherwise appropriated.

The county auditor shall reimburse the township for any expense incurred under section 3 hereof and shall charge such expense to the dog license fund. (As amended Apr. 5, 1943, c. 294, §3.)

(2) * * * * *

Penal provision does not create a crime requiring procedure as in a criminal case, but violator may be proceeded against in a civil action by the state or county. Op. Atty. Gen. (146d-2), Nov. 9, 1943.

7297-48. Owners of domestic animals may file claim for damages.

Resident of another county cannot file a claim. Op. Atty. Gen. (293b-14), Oct. 30, 1941.

One cannot obtain damages for injury to his own stock done by his own dog and a neighbor's dog, both of which he identified. Op. Atty. Gen. (146f), May 12, 1942.

7297-49. May kill dogs in certain cases.

This section is effective even though county dog licensing system is not established. Op. Atty. Gen. (146a-2), Feb. 28, 1941.

CHAPTER 54**Unclaimed Property****7298. Duty of consignee or bailee.**

Disposition by municipal authority of vehicles abandoned upon street, highway, or city owned property. Op. Atty. Gen. (632d-1), Sept. 17, 1942.

7306. Unclaimed money in court, how disposed of, etc.

Rehabilitation, liquidation, conservation and dissolution of delinquent insurers. Laws 1943, c. 571.

COMMON LAW**DECISIONS RELATING TO CHAPTER IN GENERAL****1. Lost property in general.**

Property taken from prisoner may be disposed of when owner cannot be found and property has been abandoned. Op. Atty. Gen. (91i), Sept. 4, 1942.

2. Unclaimed stolen property.

Disposal of stolen and abandoned property by bureau of criminal apprehension. Laws 1941, c. 389.

Apparently stolen property coming into hands of bureau of criminal apprehension and unclaimed should be turned over to sheriff of county where taken, to be disposed of as unidentified stolen property. Op. Atty. Gen. (985), Jan. 15, 1940.

Where garage man purchased oil at such a cheap price that he thought it was stolen and turned it over to the

police, and suspected thief escaped, oil should be returned to garage man after reasonable time and after any possibility of its being needed as evidence is gone. Op. Atty. Gen. (605B-40), Mar. 27, 1942.

Dispositions of stolen property and in hands of sheriff when he is unable to find the owner. Op. Atty. Gen. (605b-40), May 20, 1943.

CHAPTER 55

Hotels and Public Resorts

7321. Equal rights in hotels and other places.—No person shall be excluded, on account of race, color, national origin or religion, from full and equal enjoyment of any accommodation, advantage, or privilege furnished by public conveyances, theaters, or other public places of amusement, or by hotels, barber shops, saloons, restaurants, or other places of refreshments, entertainment, or accommodations. Every per-

son who violates any provision of this section, or aids or incites another to do so, shall be guilty of a gross misdemeanor, and, in addition to the penalty therefor, shall be liable in a civil action to the person aggrieved for damages not exceeding \$500.00. (As amended Act Apr. 23, 1943, c. 579, §1.)

Director of division of hotel inspection has no authority to revoke hotel and restaurant licenses for race discrimination. Op. Atty. Gen. (238f), June 3, 1942.

CHAPTER 56

Auctioneers

7322. Auctioneers licenses—To whom granted.—The county board or auditor may license any voter in its county, as an auctioneer. Such license shall be issued by the auditor and shall authorize the licensee to conduct the business of an auctioneer in the state of Minnesota for the period of one year. It shall be recorded by the auditor in a book kept for that purpose. Before such license is issued the licensee shall pay into the county treasury a fee of \$10.00. Provided, that any person may be licensed as an auctioneer for the purpose of making sales of pure bred livestock only, upon the payment of the fee and the giving of the bond as above provided. (As amended Apr. 10, 1941, c. 170, §1; Apr. 6, 1943, c. 311, §1.)

An auctioneer residing in and licensed in Wisconsin is permitted to secure a license in Minnesota for purpose of making sales at auction of property other than livestock, but must pay license fee of \$25.00. Op. Atty. Gen. (16c), Oct. 12, 1939.

An auctioneer residing and licensed in Wisconsin, which has no statute giving reciprocity, is permitted to secure a license in this state to make sales at auction of property other than livestock upon payment of a fee of \$25. Op. Atty. Gen. (16c), Oct. 12, 1939.

A firm or company or a family cannot be licensed as an auctioneer. Op. Atty. Gen. (16B), April 10, 1940.

A minor is not a "voter" and cannot be licensed. Id.

A corporation is not a "voter," and is not eligible for a license. Op. Atty. Gen. (16B), Nov. 20, 1940.

Laws 1941, c. 170, amending this section, is not unconstitutional for prohibiting issuing of a license to a non-resident. Op. Atty. Gen. (16b), June 16, 1941.

A resident of Wisconsin cannot be licensed as an auctioneer in Minnesota. Op. Atty. Gen., (16b), July 30, 1941.

Under first or general provision, licensee must be a voter; under second or livestock provision, any person may be licensed to sell pure bred or livestock only; and under third or reciprocal provision, law does not come within purview of provisions of Iowa statute, and word "may" is permissive and county board or auditor has power to exercise sound discretion to grant or refuse to issue license to non-resident. Op. Atty. Gen. (16B), Sept. 26, 1941.

County auditor may not issue an auctioneer's license to a resident of Iowa. Op. Atty. Gen. (16c), Nov. 5, 1943.

7327. Unlicensed sales.—If any person shall sell or attempt to sell, either directly or indirectly, or as the agent of a duly licensed auctioneer, any property at auction without being licensed as an auctioneer, as herein provided, he shall be guilty of a misdemeanor; but the provisions of this Chapter shall not extend to sales made by sheriffs, coroners, constables, collectors of taxes or sales of personal property under chattel mortgage or other lien. (As amended Apr. 5, 1943, c. 297, §1.)

CHAPTER 56A

Hawkers, Peddlers, and Transient Merchants

HAWKERS AND PEDDLERS

7332. Right of municipalities, etc., to regulate.

City ordinance requiring hawkers and peddlers taking orders for future delivery to have a license and pay a tax imposed an unlawful burden upon interstate commerce, as applied to local agent with local business receiving goods from employer in another state. City of Waseca v. E., 206M154, 288NW229. See Dun. Dig. 4146.

A "Green River Ordinance", making it a nuisance for solicitors or peddlers to call at private residences without having been requested or invited so to do, has been held valid by some courts and invalid by others. Op. Atty. Gen., (59a-32), Dec. 22, 1939.

Assuming but not deciding that Green River ordinances are valid, it is a violation for a solicitor to first make a call upon home owner for purpose of obtaining an invita-

tion to later return and solicit an order for goods. Op. Atty. Gen., (62B), April 30, 1940.

TRANSIENT MERCHANTS

7340. Transient merchant defined.

Necessity for obtaining license by local jeweler leasing an additional building to auction off merchandise which he has shipped in from other cities where he has maintained similar stores depends upon whether business to be conducted in leased building is of a transient or temporary nature, or a part of his regular business. Op. Atty. Gen. (16B), Feb. 17, 1940.

7343. Right of municipalities, etc., to regulate.

City of Mankato may license transient merchants as defined by state law. Op. Atty. Gen. (290p), May 19, 1942.