

voters within the territory of the service area shall be phrased substantially as follows:

“Shall the subordinate service area heretofore established be withdrawn and the service or services of the county as provided for such service area be discontinued?”

If a majority of those voting on the question favor the withdrawal and discontinuance of such services, the service area shall be deemed withdrawn and the services of the county shall be discontinued upon certification of the vote by the county auditor. The county auditor shall administer the election.

Sec. 11. **Effective date.** This act shall become effective upon approval by the county board of Olmsted county and upon compliance with Minnesota Statutes, Section 645.021.

Approved April 21, 1967.

CHAPTER 207—S. F. No. 332

An act relating to forestry; railroads, and forest fire prevention; amending Minnesota Statutes 1965, Sections 88.20 and 88.21.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1965, Section 88.20, is amended to read:

88.20 Forestry; fire prevention; railroad companies to provide patrolmen. When in the judgment of the *director commissioner of conservation* there is danger of the setting and spreading of fires from locomotive engines, he shall order any railroad company to provide patrolmen *with the necessary equipment* to follow each train throughout such fire patrol district or districts as he deems necessary to prevent fires. ~~From and after April 1, 1939, these patrolmen shall be equipped with a patrol speeder or other suitable conveyance, and each railroad patrolman shall carry with him on such conveyance when performing patrol duty one number two shovel and a suitable container with a double acting pump attached thereto; commonly called a “pump tank,” holding at least five gallons of water; the pump tank to be kept filled with water ready for use and maintained in such condition at all times that under normal operation of the pump a stream of water can be forced through a three-sixteenths inch diameter nozzle a distance of at least 20 feet. When the *director commissioner* has so notified a railroad company to~~

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

provide such a patrol after trains, the railroad company shall immediately comply with the requirements of this notice throughout the territory designated; and, upon its failure so to do, the ~~director~~ *commissioner* may employ patrolmen with the necessary equipment to patrol the rights-of-way of the railroad, and the expense of the same shall be charged to the railroad company and may be recovered in a civil action in the name of the state of Minnesota; and in addition thereto the company shall be guilty of a misdemeanor. All moneys so recovered shall be paid into the state treasury and credited to the appropriation from which these expenses were paid.

The ~~director~~ *commissioner* may prescribe such other measures as are considered by him to be essential for the immediate control of fire.

It is made the duty of any railroad company, acting independently of the ~~director~~ *commissioner*, to patrol its right-of-way after the passage of each train when necessary to prevent the spread of fires and to use the highest degree of diligence to prevent the setting and spread of fire, to cause the extinguishment of fires set by locomotives or found existing upon their respective rights-of-way; and any failure of the railroad company, its officers and patrolmen, to comply with this section shall be a misdemeanor and punishable by a fine of not less than \$50 nor more than \$100 and costs, and in addition thereto the railroad company shall be liable for all expenses and damages caused by or resulting from such failure of duty.

Sec. 2. Minnesota Statutes 1965, Section 88.21, is amended to read:

88.21 Railroads; duties; penalties. Subdivision 1. When the ~~director~~ *commissioner* has reason to believe that a certain locomotive caused a fire he ~~can order~~ *may require* the railroad company to forward to him at once ~~by mail~~ a written report covering the inspection of the fire-protective appliances of such locomotive made next after the occurrence of the fire. Such written report shall be copied from the inspection book required to be kept by the railroad company under ~~sections 88.03 to 88.21~~ *subdivision 6 of this section*. Every person operating a railroad for any purpose shall equip and use upon each steam or Diesel locomotive engine a practical and efficient ash pan and/or spark arrester device, which the master mechanic or corresponding skilled employee of the operator shall cause to be inspected each time before the locomotive leaves the roundhouse or starts on any trip, between the dates of March first and November thirtieth, both dates inclusive, each year. It shall not be required to make more than one such inspection of any one engine within a period of 24 hours. ~~Between the dates of December first and~~

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

February twenty-eighth, both dates inclusive, each year, this inspection shall be made at intervals of not more than seven days. Where spark arresters are equipped with a manhole door, such door shall be removed at the time of inspection and replaced before an engine goes on any trip. Such ash pan and spark arrester device shall be constructed and operated in conformity and in compliance with all the following specifications and rules:

(1)—Except when the ash pan is being cleaned, the hopper opening for removal of cinders on ash pans constructed with hoppers shall be kept closed while the engine is in use by a cast slide supported by cast guides; and there shall be no opening greater than five-sixteenths of an inch between the slide and hopper; or such openings in hoppers for removal of cinders may be closed by what is known as the "radial type of hopper bottom," the general design of which shall be approved, in writing, by the director;

(2)—Ash pans commonly known as solid or swipe pans shall have the ends, if open, covered either with a substantially constructed solid damper or screen damper, which shall extend at least one and one-fourth inches inside or outside the pan when closed; leaving no opening greater than five sixteenths of an inch in width; so arranged that it can be fastened down, and kept fastened down when the engine is in use; if a screen is used, it shall conform to the specifications for use in spark arresters, as contained in sections 88.03 to 88.21;

(3)—Openings in ash pans for draught purposes shall be protected by screens bolted firmly and securely over such openings or by the use of deflector plates in place of screens; provided, that any deflector plate used for such purpose shall extend above or below, as the case may be, the opening to be protected a distance at least equal to the width of such opening; and, provided, further, that any such deflector plate so used shall be closed in at each end thereof; (all screens so used and the bolting in place thereof shall conform to the specifications for spark arresters, as contained in sections 88.03 to 88.21);

(4)—On locomotive engines where there is an opening between ash pan and the foundation ring, protection shall be furnished by a flare brought up level with the bottom of the foundation ring, such flare being either an integral part of the pan or attached to the body of the pan by bolts, rivets, or hinges; where hinges are used the flare shall have suitable locking devices and the hinges and locking devices shall be so spaced and maintained in such condition as to hold the flare securely in place; and the opening between the bottom of the foundation ring and flare of pan, measured horizontally, shall

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

not be greater than eight inches at any point; provided, that for any distance the flare of pan extends above the bottom of foundation ring, the flare may be extended out horizontally an equal distance in excess of eight inches; or such opening between ash pan and foundation ring may be protected by deflector plates; provided, that any deflector plates used for such purposes shall extend above and below, as the case may be, the opening to be protected a distance at least equal to the width of such opening and that any such deflector plate so used shall be closed in at each end thereof;

(5)—Openings in ash pans for entry of grate connections must be fully protected; and the openings around the rods where they enter the ash pan must not be greater than five-sixteenths of an inch in width; or the grate connections outside the ash pan must be boxed in for their full length so that no sparks or cinders can possibly escape;

(6)—Plates and angle irons used in ash pans, including all fire protective devices attached thereto, shall not be less than one-fourth of an inch in thickness, and the ash pans, including all fire protective devices attached thereto, shall be so constructed and maintained in such condition that there shall be no openings in excess of five-sixteenths of an inch in width;

Material used in construction or repair of ash pans shall be of iron or steel securely bolted or riveted or welded in place. No cement, putty, asbestos, or other material or substance other than iron or steel shall be applied to, laid on, attached to, or used in any way in connection with or made a part of ash pans;

From and after May 1, 1933, the spacing of bolts, rivets, studs, and other fastening devices in sheet iron and steel plates, whether fastened to other plates, castings, forgings, or other parts when used in the construction or repair of ash pans and all fire protective appliances attached thereto, shall not be greater than three and three-fourths inches center to center;

The spacing of bolts, rivets, studs, and other fastening devices in castings, used in the construction of ash pans and all fire protective appliances attached thereto, shall be such as to hold the casting securely in place;

(7)—Such ash pans shall be equipped with swipes, injector overflow or other sprinkling devices, and ashes and coals therein shall be kept extinguished and dampened at all times between April fifteenth and October thirty-first, both dates inclusive, each year, and during such additional period, in any particular territory, as may be specified, in writing, by the director;

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

(8)—Spark arrester screens shall be either square mesh wire screen or oblong mesh wire screen or perforated plate; and conform to the following specifications:

SQUARE MESH WIRE SCREEN

Mesh per lineal inch in either direction	Least diameter of wire when new	Condemning limit of opening in mesh in either direction
2-1/2 by 2-1/2	0.134 inch	19/64 inch
2-2/3 by 2-2/3	0.134 inch	19/64 inch
3 by 3	0.105 inch	17/64 inch
4 by 4	0.092 inch	0.204 inch
5 by 5	0.072 inch	0.164 inch
6 by 6	0.063 inch	0.1355 inch
7 by 7	0.063 inch	0.1115 inch

Fractional mesh shall not be used except as specified.

OBLONG MESH WIRE SCREENS

Size of opening mesh	Least diameter of wire when new	Condemning limit of opening in mesh
3/16 by 3/4 inch	0.134 inch	1/4 by 13/16 inch
1/8 by 3/4 inch	0.134 inch	3/16 by 13/16 inch

The openings in perforated plates when new shall be oblong; not exceeding three-sixteenths of an inch in width or three fourths of an inch in length; and there shall not be less than one eighth of an inch in width of plate between the meshes; and such plate shall not be less than 0.085 of an inch in thickness; the condemning limit of the openings in perforated plate shall be one-fourth of an inch in width and thirteen-sixteenths of an inch in length;

(9)—The spark arrester screen shall have a manhole door with a substantial rigid frame; large enough to allow the entry for purposes of inspection and repair;

(10)—All angle irons and plates used for the purpose of attaching or supporting any part of the spark arrester device shall be so placed as to fit closely and continuously to the smoke arch; plates; angle irons; and other parts;

(11)—Plates used in the construction or repair of spark ar-

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

resters; wherever attached; shall not be less than three-sixteenths of an inch in thickness;

From and after May 1, 1931, angle irons used in spark arresters shall be of sections in size not less than one-fourth of an inch by two inches by two inches; on all steam or Diesel locomotive engines unless otherwise authorized; in writing; by the director. The spacing of rivets, bolts, studs, and other fastening devices used in spark arresters shall not be greater than set forth in the following specifications:

Fastening screens three and one-half inches center to center;

Fastening angle irons to smoke arch eight inches center to center;

Fastening plate five inches center to center;

Fastening angle irons to flue sheet eight inches center to center.

Material used in the construction or repair of spark arresters shall be of iron or steel securely bolted or riveted or welded in place. No cement, putty, asbestos or other material or substance other than iron or steel shall be applied to, laid on, attached to or used in any way in connection with or made a part of spark arresters except upon written approval of the director. No opening anywhere in the spark arrester device; other than the openings herein specified for wire screen and perforated plate; shall be larger than one fourth of an inch in width;

(12)—Devices and appliances differing from those specified in this subdivision may be used for experimental purposes only by written permission of the director during such limited periods and upon such terms and conditions as he may prescribe; this written permission shall be subject to revocation by the director at any time; and such experimental devices or appliances shall not be permanently adopted unless authorized by law;

(13)—Permission is hereby given to use as a spark arrester on all types of engines using wood, coal, oil, or other fuels the so-called "Cyclone spark arrester"; this arrester shall consist primarily of a drum with entrance so arranged that the products of combustion shall be given a rotary motion within the drum to the extent that all sparks shall be sufficiently cooled before leaving the stack as to preclude such sparks reaching the ground alive; the drum shall be constructed of iron or steel at least one-fourth inch in thickness. The number of fastenings shall be such as to hold the plates and other parts securely in position; and all parts of the spark arrester which

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

are essential to its proper operation shall be maintained in a safe and serviceable condition at all times.

Permission is hereby given to use as a spark arrester on all types of engines using wood, coal, oil, and other fuels the so-called "Anderson spark eliminator." This spark eliminator shall consist primarily of a top ring set horizontally and attached to the extension stack; a bottom ring set horizontally and attached to the exhaust pipe; deflector plates set vertically in between the two rings; such deflector plates being arranged suitably around the exhaust nozzle. Plates used in the construction of the spark eliminator shall be of iron or steel at least one-fourth inch in thickness and the number of fastenings shall be such as to hold the plates and other parts securely in position. All parts of the spark eliminator which are essential to its operation shall be maintained in a safe and suitable condition at all times.

Subd. 2.—A record shall be kept of all examinations required by this section, in a book to be furnished, by every person operating a railroad for any purpose, showing:

(1)—The place and number of each engine inspected;

(2)—The date and hour of day of such inspection;

(3)—A detailed statement, signed by the employee making the inspection, giving location and size of openings greater than permitted by sections 88.03 to 88.21 and of any and all defects found in the ash pan or spark arrester device, and of the condition thereof; and

(4)—A detailed statement, signed by the employee making the same, of any and all repairs, replacements, or renewals made at any time on, or in connection with, the ash pan or spark arrester device.

The book shall always be open for inspection by the director or other authorized officer appointed by him.

Subd. 3.—The master mechanic, or corresponding employee, shall be held responsible for the good condition of the ash pan and spark arrester device; but without relieving the person owning or operating the locomotive engine from his responsibility hereunder.

Any locomotive inspector appointed by the director is authorized to inspect any locomotive engine operated in the vicinity of forest, brush, peat or grass lands, and to enter upon any property for such purpose when he may deem it necessary in order to see that all the provisions of law relating to the subject matter are duly complied with. When the inspector requests the person in immediate charge of the locomotive that he be accompanied while making the inspection

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

by a representative of the person owning or operating the locomotive; this request shall be immediately complied with, and either the roundhouse foreman; assistant roundhouse foreman; boiler foreman; or corresponding employee shall accompany the inspector during the time he is making the inspection. The inspector shall have access to the records of every person operating a railroad for any purpose, and authority to make copies thereof, showing the locations and movements of all locomotive engines within this state and is authorized to use such methods as he may deem advisable in making up his records and substantiating his findings. No locomotive shall be operated in the vicinity of forest, brush, peat or grass lands after being found defective by the inspector and after notice of such condition has been given to the person in charge thereof, until the repairs specified by the inspector have been made; except where a locomotive is found defective on the line it may proceed to the first terminal or point where repairs can be made.

Any violation of the provisions of this subdivision shall be a gross misdemeanor. The provisions of this subdivision shall not relieve any one from any duty or liability under any provision of any statute.

Subd. 4.—Every person operating a railroad for any purpose shall keep its right of way clear of grass, brush, combustible materials, logs, poles, lumber, and wood, except ties and material for shipment and other material necessary for the maintenance and operation of the road, from March fifteenth to December first. During particularly dry and dangerous periods the director may prohibit any and all burning along part or all of any railroad right of way for a definite period.

Subd. 5.—Every person operating a railroad for any purpose shall establish and maintain such fire breaks along the route of its railway as can be constructed and maintained at not excessive expense. The intention shall be to adjust the protective measures to the local conditions; and to make the expense proportionate to the fire risk and the possible damage.

Subd. 6.—Except when the ground is covered with snow, no steam or internal combustion donkey engine, tractor engine, sawmill engine, threshing engine, shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler, except any locomotives conforming to all the requirements of sections 88.03 to 88.21, shall be operated in the vicinity of forest, brush, peat or grass lands; unless and until the same is provided with a practical and efficient spark arrester device.

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

The person in charge of such engine or boiler shall be held responsible for the good condition of the spark arrester device, but without relieving the person owning or operating the engine from his responsibility hereunder. Any locomotive inspector appointed by the director is authorized to inspect any steam or internal combustion donkey engine, tractor engine, sawmill engine, threshing engine, shovel, railroad ditcher, railroad wrecker, or portable engine, or other engine or boiler operated in the vicinity of forest, brush, peat or grass lands, and to enter upon any property for such purpose whenever he may deem it necessary in order to see that all the provisions of the laws relating to the subject matter are duly complied with, and is authorized to use such methods as he may deem necessary in making up his records and substantiate his findings.

No steam or internal combustion donkey engine, tractor engine, sawmill engine, threshing engine, shovel, railroad ditcher, railroad wrecker, or portable engine or other engine or boiler, shall be operated in the vicinity of forest, brush, peat or grass lands, after being found defective by the inspector and after notice of such condition has been given the person in charge thereof, until the repairs specified by the inspector have been made. Any violation of the provisions of this paragraph shall be a gross misdemeanor; provided, that the provisions of this paragraph shall not relieve anyone of any duty or liability under any other provisions of any statute.

No person operating a steam or internal combustion donkey engine, tractor engine, sawmill engine, threshing engine, shovel, railroad ditcher, railroad wrecker, or portable engine, or other engine or boiler, shall leave a deposit of fire, live coals, or ashes in the immediate vicinity of forest lands or lands liable to be overrun by fire.

Subd. 7.—No person operating a railroad for any purpose shall leave a deposit of fire, live coals, or ashes in the immediate vicinity of forest lands or lands liable to be overrun by fire; and every engineer, conductor, or trainman discovering a fire adjacent to the track shall report the same promptly to the agent at the first telegraph or telephone station reached by him; whose duty it shall be, as representative of such company, at once to take necessary steps to put out such fire.

Subd. 8.—Every person operating a railroad for any purpose shall give its employees particular instructions for the prevention and extinguishment of fires, and cause warning placards such as are approved by the director to be conspicuously posted at every station in the vicinity of forest, peat, brush, and grass lands, and when a fire occurs on the right of way of its road, shall immediately concen-

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

trate such help and adopt such measures as shall be available for its extinguishment.

Subd. 9.—Any person operating a railroad for any purpose shall make written report to the director, in such form as the director may prescribe, covering each fire in the open on or adjacent to the right of way of the railroad, within one week after the occurrence of the fire, unless such time shall be extended by written permission of the director; provided, that the provisions of this subdivision shall not be construed to relieve any person from the duty of reporting such fire as required by any other law.

Subd. 10.—When any combustible material shall be left in proximity to any railroad, either without proper protection or so as to constitute a fire menace, it shall be the duty of the owner of the material, upon being notified, in writing, by the director, or any forest ranger, as to the nature and extent of the protection required, forthwith to comply with all the terms of the notice so as properly to protect the material, or remove the same; and upon default of the owner, this protection or removal may be accomplished under the direction of the director and the expense thereof collected from the owner.

Subd. 11.—Every person operating a railroad for any purpose who shall fail to equip and use upon each steam or Diesel locomotive engine a practical and efficient ash pan and/or spark arrester device, constructed and operated in conformity with all the specifications and requirements set forth in sections 88.03 to 88.21, shall be liable to a penalty of \$500 per day for each and every day on which such defective locomotive is run within this state. Upon receipt of duly verified information disclosing that a violation has occurred, the attorney general may bring suit in the district court of Ramsey county, or of any other county, at his election, for the recovery of these penalties, which, when so collected, shall be credited to the general revenue fund of the state.

Subd. 12.—All forms, records, placards, and notices of any kind required to be printed by the companies under sections 88.03 to 88.21, shall be approved by the director every two years, beginning May 1, 1939, and these forms can be ordered changed at such periods. Any new forms, records, placards, and notices of any kind so ordered shall be put in use at once unless written permission is given by the director for the use of the old form until the supply then on hand is exhausted.

Subd. 2. *All railroad companies operating railroads within this state shall keep their right-of-way cleared of all combustible mate-*

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

rial and safely dispose of same within limits of their right-of-way, as the commissioner may direct.

This section shall not be construed to prevent or prohibit any railroad company from piling or keeping upon the right-of-way cross ties or other material necessary in the operation or maintenance of such railroad.

No railroad company or its employees shall leave a deposit of fire or live coals or hot ashes in the immediate vicinity of forest lands or lands likely to be overrun by fires, and whenever engineers, conductors, or trainmen discover untended fires along the right-of-way, or in woodlands adjacent to the railroad, they shall report the same promptly by the most expeditious means available to the nearest station at which an operator is on duty, or to the first available section crew. In season of drouth, railroad companies shall give particular instruction to their employees for the prevention and prompt extinguishment of fires, and they shall cause warning signs furnished by the commissioner of conservation to be posted at their stations, and where a fire occurs along the line of the road, they shall concentrate such help and adopt such measures as shall be available to effectively extinguish it.

Subd. 3. The commissioner of conservation may permit the railroad to use devices and appliances for experimental purposes only by written permission during such limited periods and upon such terms and conditions as he may prescribe; this written permission shall be subject to revocation by the commissioner at any time, and such experimental devices or appliances shall not be permanently adopted unless authorized by law.

Subd. 4. Except when the ground is covered with snow, no steam or internal combustion engine shall be operated in the vicinity of forest, brush, peat, or grass lands, unless and until the same is provided with a practical and efficient spark-arrester device or its equivalent. The railroad company or other owners of such engine shall be held responsible for the good condition of spark arresters.

Subd. 5. Any locomotive inspector appointed by the commissioner is authorized to inspect any locomotive operated in the vicinity of forest, brush, peat, or grass lands, and to enter upon any property for such purpose when he may deem it necessary in order to see that all the provisions of law relating to the subject matter are duly complied with. The inspector shall have access to the records of every person operating a railroad for any purpose, and authority to make copies thereof, showing the locations and movements of all locomotive engines within this state, and is authorized to use such methods

Changes or additions indicated by italics, deletions by ~~strikeout~~:

as he may deem advisable in making up his records and substantiating his findings.

Subd. 6. A record shall be kept of all examinations required by this section, in a book to be furnished, by every person operating a railroad for any purpose, showing:

- (1) *The place and number of each engine inspected;*
- (2) *The date and hour of day of such inspection;*
- (3) *A detailed statement, signed by the employee making the same, of any and all repairs, replacements, or renewals made at any time on, or in connection with, spark arresters.*

The book shall always be open for inspection by the commissioner or other authorized officer appointed by him. A record of all examinations required by this section which is contained in official inspection records of a railroad company, when such records are regularly required by other governmental authority, may constitute a proper record of examinations required by this section in the discretion of the commissioner.

Subd. 7. Any failure of the railroad company and its employees to comply with this section shall be a misdemeanor; and in addition thereto the railroad company shall be liable for all expenses and damages directly and proximately caused by or resulting from such failure of duty. The provisions of this section shall not relieve anyone from any duty or liability under any other law.

Subd. 8. Any person operating a railroad for any purpose shall make written report to the commissioner, in such form as the commissioner may prescribe, covering each fire in the open on or adjacent to the right-of-way of the railroad, within one week after the occurrence of the fire, unless such time shall be extended by written permission of the commissioner; provided, that the provisions of this subdivision shall not be construed to relieve any person from the duty of reporting such fire as required by any other law.

Approved April 21, 1967.

CHAPTER 208—S. F. No. 676

[Not Coded]

An act relating to St. Louis county, and to children; custody of; illegitimate.

Be it enacted by the Legislature of the State of Minnesota:

Changes or additions indicated by italics, deletions by ~~strikeout~~.