

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special 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 digest of all common law decisions.



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MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1938

dollars, one-half of which fine shall be transmitted to the Commissioner of Insurance and shall be disbursed by him as other sums collected under the terms of this Act are disbursed. (Act Jan. 9, 1934, Ex. Ses., c. 56, §1; Apr. 17, 1937, c. 258, §1.)

3750-36. Same—collection of percentage on premium—recovery.—If such insurance has been effected in any company not authorized to do business in this state, or if such owner carries his own insurance fund or reserve, the Commissioner of Insurance shall, and he is hereby authorized and empowered, to collect from such property owner such taxes as would equal the taxes on the annual premium which authorized insurance companies would have charged for insuring such property. If not paid upon demand, such per centum may be recovered in a civil action brought in the name of the State. (Act Jan. 9, 1934, Ex. Ses., c. 56, §2; Apr. 17, 1937, c. 258, §2.)

3750-37. Same—disposition of proceeds.—All sums collected under the terms of this Act shall be payable to the respective municipalities or fire department relief associations in the same manner and disbursed for the same purposes as the two (2) per cent state tax on fire insurance premiums. (Act Jan. 9, 1934, Ex. Ses., c. 56, §3; Apr. 17, 1937, c. 258, §3.)

3750-38. Same—exempt property.—This Act shall not apply to property owned and occupied exclusively as a homestead nor to exempt property specified in Section 9447, Mason's Minnesota Statutes of 1927 and upon which homestead or exempt property the owner carries his own insurance. (Act Jan. 9, 1934, Ex. Sess., c. 56, §4.)

CHAPTER 20

Inspector of Oils

3770. Abolishing of office of state oil inspector and transferring powers, etc.
Superseded by §§53-25, 53-27½.

3771. Dairy and food commissioner to be appointed by governor.
Superseded in part by §§53-25, 53-27½.

3773. Inspection districts—Compensation of inspectors.—The dairy and food commissioner, in conjunction with the chief oil inspector, is hereby authorized to create not to exceed sixty-seven inspection districts in the state. In the creation of said district due consideration shall be given to important shipping centers. Said commissioner, with the advice of the chief oil inspector, is hereby authorized to appoint when necessary one deputy for each inspection district so established. He shall take such measures as he deems necessary to prevent duplication of effort by inspectors under his control and to effect economy in the administration of the inspection laws, and to that end he shall detail dairy and food inspectors to perform the duties of deputy oil inspectors as far as practicable. The deputy inspectors shall receive compensation on a graded scale based upon their qualifications, the volume of work they perform, and tenure of employment. Such compensation shall be not less than One Hundred Dollars (\$100.00) per month during the probationary period of one year, not less than One Hundred Twenty-five Dollars (\$125.00) per month during the next succeeding four years, and thereafter not less than One Hundred Fifty Dollars (\$150.00) per month; and they shall be reimbursed for all expenses necessarily incurred by them in the performance of their official duties; such salaries to be determined by the dairy and food commissioner upon the advice of the chief oil inspector. For the purpose of effecting more efficiency and economy in the service, the chief oil inspector is authorized, whenever he finds it advantageous and practical, to detail

PENALTIES

3757. When agent of insurer, etc.

State supreme court's decision that a soliciting agent of an insurance company has authority to accept promissory note of insured in payment of ordinary premium, held binding on federal court. *Braman v. M.*, (USCCA8), 73F(2d)391. See Dun. Dig. 161.
Agent of insurer cannot bind his principal by agreement that premium shall be applied in payment of his personal debt. 179M545, 229NW879.

A policy of life insurance became effective, whether delivered or not, as of the date of the application if the first premium was paid in cash. *Lueck v. N.*, 135M184, 240NW363. See Dun. Dig. 4655.

Agent represented insurer and not insured in accepting overdue payments while insured was ill. *Wagner v. S.*, 197M319, 267NW216. See Dun. Dig. 4704.

3762. Violations of chapter.

An agreement to attend to communication with relatives or friends of automobile owner in an emergency, to furnish bail bonds, and to defend in civil or criminal litigation, furnish tow service and roadside repairs and mechanical advice, constituted an insurance contract though there was no agreement to answer for any judgment resulting from litigation. *State v. Bean*, 193M199, 258NW18. See Dun. Dig. 4640.

Sentence of nine months for unlawful issue of license held not excessive. *State v. Bean*, 199M16, 270NW918. See Dun. Dig. 4640, 4702.

Evidence sustains jury's finding that an insurance policy was "issued" by defendant in Ramsey county, and as such the offense charged in indictment was properly triable there. *Id.*

3766. Rebate on insurance contracts prohibited.

Life insurance cannot be combined with a subscription for stock on the installment plan. *Op. Atty. Gen.*, Dec. 17, 1931.

Right of optional purchase of stock in endowment policy does not offend §3766, but does have effect of making policy a "security" within §3996-1(3) and writing of insurance a "sale" within §3996-4, requiring registration and license from commerce commission. *Op. Atty. Gen.* (249a-17), Mar. 19, 1937.

deputy oil inspectors to inspect petroleum products in storage outside of the state at places from which such products are transferred to dealers or consumers within the state. (As amended Apr. 26, 1937, c. 439, §1.)

Act increasing minimum compensation of deputy oil inspectors without making appropriations therefor did not contemplate reduction of needed personnel to efficiently administer an important revenue producing tax law, and though an act ordinarily becomes effective day following approval, such act would not become effective until after an appropriation had been made by legislature, in absence of administrative means of making salary and wage adjustment to compensate for minimum salaries prescribed. *Op. Atty. Gen.* (9a-27), May 10, 1937.

Oil inspection department must observe statute fixing certain minimum salary, and must keep within appropriations made, though it must result in reducing personnel or salaries of other personnel not fixed by law. *Op. Atty. Gen.* (325a-21), June 8, 1937.

3774. Reports and inspection—improper traffic.

Superseded by §3787-3.

3776. Kerosene must be inspected.

Superseded by §§3787-7 to 3787-9.

3778. Gasoline must be inspected.

Superseded by §§3787-5, 3787-6, 175M276, 221NW6.

3779. Duties of oil inspector and deputies.

Superseded by §3787-11.

3780. Sale of adulterated kerosene or gasoline forbidden.

Superseded by §3787-12.

3781. Must be inspected before unloading.

Superseded by §§3787-4, 3787-5.

3783. Fees for inspection.

Superseded by §3787-14.

3785. Penalty for adulteration or changing of certificate.

Superseded by §3787-16.

3786. Violations—penalties.

Superseded by §§3787-16, 3787-18.

3787-1. Definitions.

Section 1. Unless the language or context clearly indicates that a different meaning is intended the following words and terms shall, for the purpose of this act, be given the meaning hereinafter subjoined to them.

(a) "Motor gasoline" means and includes all gasoline, benzine, naphtha, benzol and other volatile and inflammable liquids by whatever name called, used for generating power in combustion engines, but does not include the products herein defined as kerosene, furnace oil or gasoline for other industrial, heating or cooking purposes.

(b) "Kerosene" means and includes all illuminating oils, signal oil, mineral seal and other petroleum liquids, by whatever name called, used for illuminating, cooking or power purposes, but does not include the products herein defined as gasoline or furnace oil.

(c) "Furnace oil" means and includes all kerosene distillate, gas oil, fuel oil, and other petroleum liquids by whatever name called used or to be used only for domestic heating purposes, but does not include the products herein defined as gasoline or kerosene.

(d) "Lubricating Oils" means and includes all grades of petroleum oil used for the general lubrication of internal combustion engines.

(e) "Distributor" means and includes every person, co-partnership, company, joint stock company, corporation, or association of persons however organized, who brings or causes to be brought into this state gasoline, kerosene, furnace oil, or any other petroleum product by or through pipe lines, trucks, barrels, tank cars, or in carload lots, for storage, sale, distribution, or use therein, and every person, partnership, company, joint stock company, corporation, or association of persons, however organized, who produces, refines, manufactures, or compounds gasoline or any other petroleum product for storage, sale, distribution or use therein.

(f) "Crude petroleum" means and includes any basic petroleum in its raw, undeveloped, unblended, or partially blended state, capable of being blended, merged or compounded with other petroleum products or foreign chemicals for the purpose of creating a marketable petroleum product such as lubricating oil, furnace oil, kerosene, motor gasoline or distillate. (Act Apr. 27, 1929, c. 425, §1; Apr. 21, 1933, c. 365, §1.)

This act does not violate U. S. Constitution, Art. 1, §10, cl. 2, relating to imposts or duties on imports or exports. Op. Atty. Gen. (325a-20), Mar. 24, 1937.

Distributors may be permitted to bring products into state that do not meet gasoline specifications for "the purpose of further manufacture," and they may be permitted to unload such products as naphtha, casing-head, etc., for purpose of further manufacture resulting in a finished gasoline that will meet state specifications. Op. Atty. Gen. (325a), May 12, 1937.

3787-2. Duties of inspectors.—It shall be the duty of the deputy oil inspectors to secure samples of gasoline, kerosene and furnace oils from all tank cars shipped into their respective districts within twenty-four hours after receiving notice of their arrival; to immediately inspect such samples and notify the distributors of the result of the inspection; to make out certificates in triplicate and mail the originals to the distributors and the copies to the chief oil inspector; to inspect petroleum products at all places where such products are held or offered for sale; to secure samples of gasoline, kerosene, furnace oils and other petroleum products brought into the state by means of pipe lines, trucks or in carload lots at such times and under such conditions as may be deemed expedient by the Chief Oil Inspector; to keep records of all inspections made and issue reports thereof to the chief oil inspector on the last day of each month; to inspect general surroundings and conditions at all places where petroleum products are stored, held or offered for sale; to inspect all storage

tanks and other containers in order to ascertain that they are kept clean and free from water and all impurities; to check all shipments in tank cars or barrels with the railroad agents at all freight terminals in their respective districts at the end of each month; and to strictly adhere to all rules and instructions given by the chief oil inspector.

Inspection certificates shall be conclusive evidence of the facts stated therein.

For the purpose of assuring efficiency and economy in the service, the chief oil inspector is authorized, whenever he finds it advantageous and practicable, to detail deputy oil inspectors to inspect petroleum products loaded in tank cars outside of the state at places from which such products are transferred to dealers or consumers within the state; to detail deputy oil inspectors to inspect the mode, procedure and method used in the transportation of petroleum products by means of pipe lines, trucks, barrels, tank cars, or carload lots in other states at places from which such products are transferred, or at any point or points wherein pipe lines are in operation or trucks or carload lots are in progress. (Act Apr. 27, 1929, c. 425, §2; Apr. 21, 1933, c. 365, §2.)

3787-3. Duties of chief oil inspector and his deputies.—The chief oil inspector and his deputies shall cause all the provisions of this act to be observed and enforced. The chief oil inspector shall keep a record of all inspections made showing the time and place of each, the number of packages inspected and the number of gallons contained therein and amount of fees therefor and to that end he shall require reports from his deputies at least monthly. If any product has been rejected such reports shall show the dates and location thereof and the quantity rejected and the names of the dealers in whose hands it was found and by whom it was shipped, and from whom received. Such rejected products may, by order of the chief oil inspector be temporarily held in separate storage tanks until they can be blended or mixed with other products so as to meet the legal specifications. The storing and blending of such products shall be done under the supervision of the chief oil inspector or any deputy inspector that he may detail to perform such duties.

All records shall be open to the public. If the chief oil inspector or any of his deputies shall traffic directly or indirectly in any article which it is his duty to inspect he shall be deemed guilty of a gross misdemeanor. (Act Apr. 27, 1929, c. 425, §3.)

Record of inspection of gasoline or other petroleum products made by division is open to the public. Op. Atty. Gen. (325a-14), June 29, 1934.

3787-4. Containers to be painted red.—All barrels or cans used for storing, shipping and delivering gasoline, naphtha, benzine, benzol and other volatile and inflammable products shall be painted red. Barrels containing kerosene or furnace oils shall be painted blue, green or yellow.

Tank wagons with separate compartments for gasoline, kerosene, or furnace oil shall have a red tag attached to the faucet from which gasoline is drawn.

No person under sixteen years of age shall be employed at gasoline service stations or to deliver gasoline and other inflammable products.

Gasoline tanks of motor vehicles shall not be filled with gasoline while the motor is running, nor while any of the occupants are smoking.

Gasoline shall not be pumped through the same pump line or through the same pump as is used for kerosene or furnace oil.

All visible pipes through which gasoline is drawn from tank cars or storage tanks shall be painted red. (Act Apr. 27, 1929, c. 425, §4.)

3787-5. Must be inspected before unloading.—Gasoline, kerosene or furnace oil brought into the state shall not be unloaded, removed, stored, offered for sale, or used until it has been duly inspected and

approved. It shall be the duty of each distributor or other buyer, at his own expense, to give notice to the deputy oil inspector in his district immediately upon arrival of any shipments, setting forth such information as may be required. Violation of the provisions of this section shall constitute a misdemeanor. (Act Apr. 27, 1929, c. 425, §5.)

3787-6. Specification-certificate.—Gasoline shall conform to the following specifications:

No motor gasoline shall be sold in the State of Minnesota unless it shall be at least of the grade and specifications hereinafter set out, refined and free from water, suspended matter and all impurities.

Inspection—The sample taken for inspection shall immediately after drawing be retained in a clean, absolutely tight, closed vessel and a sample for tests taken from the mixture in this vessel directly into the test vessel.

Test—The official test in and for this state, the results of which shall establish and determine the minimum requirements of motor gasoline as to quality and grade, shall be as follows:

A. The test shall be made upon a quantity of one hundred cubic centimeters which, when tested in the manner approved by the Chief Oil Inspector, shall be capable of meeting the following requirements:

- (a) When the first drop falls from the end of the condenser tube, the thermometer shall not read more than 131 degrees F.
- (b) When 20 per cent has been recovered in the receiver, the thermometer shall not read more than 221 degrees F.
- (c) When 50 per cent has been recovered in the receiver, the thermometer shall not read more than 284 degrees F.
- (d) When 90 per cent has been recovered in the receiver, the thermometer shall not read more than 392 degrees F.
- (e) The end point shall not be higher than 437 degrees F.

B. Gasoline brought in the state principally for blending purposes may be approved when it shows a recovery of not less than 86 per cent after complete distillation.

All gasoline shall be tested as to "end point," and every barrel which contains gasoline shall be branded "Unsafe for illuminating purposes," and shall be labeled or branded with the word "Gasoline" in letters at least two inches in height, and there shall be branded or stencilled on each such barrel, can, cask, tank or other vessel covering delivery of such gasoline the following:

"This is to certify that the gasoline covered by this sale has an "end point" of not over 437 degrees F. and has been inspected and approved by the chief oil inspector.

.....
(Name of distributor selling or furnishing same shall be signed, printed or stencilled on the above line.)
"Per Agent."

Provided, however, that any distributor or dealer selling or delivering gasoline in bulk by tanks shall in lieu of the stamp or brand therein provided for, furnish and deliver to the purchaser a sales ticket with certificate containing provisions as above set forth.

All testing instruments and the distillation method shall strictly conform to the rules adopted by the Petroleum Division of the Bureau of Mines, United States Government, and the American Society for Testing Material (A. S. T. M.).

All visible containers and all devices used for drawing gasoline from underground containers, at filling stations, garages or other places where gasoline is sold or offered for sale shall be stamped or labeled in a visible place with one inch letters and figures:

"STATE INSPECTED GASOLINE—PRICE PER GALLON.....CENTS," with the price inserted."

(Act Apr. 27, 1929, c. 425, §6; Apr. 21, 1933, c. 365, §3.)

Distributors may be permitted to bring products into state that do not meet gasoline specifications for "the purpose of further manufacture," and they may be permitted to unload such products as naphtha, casing-head, etc., for purpose of further manufacture resulting in a finished gasoline that will meet state specifications. Op. Atty. Gen. (325a), May 12, 1937.

3787-7. Specifications of kerosene—certificate.—Kerosene shall conform to the following specifications:

- (a) It shall be water white.
- (b) It shall not contain glue or suspended matter.
- (c) It shall not contain water.
- (d) It shall not contain more than 5% of residue after being distilled to a temperature of not more than 600 degrees F.
- (e) It shall not flash at a temperature below 120 degrees F., nor shall it burn at a temperature below 130 degrees F.

The instrument to be used in making kerosene tests shall be the Tagliabue open cup and the gravity of said oils shall be determined by the Tagliabue standard registered hydrometer Baume scale at a temperature of 60 degrees F.

There shall be printed or stencilled on each can, cask, barrel or tank covering delivery of kerosene the following:

"This is to certify that the kerosene covered by this sale has less than 5% residue in distillation to 600 degrees F. and a fire test of not less than 130 degrees, and has been inspected and approved by the chief oil inspector.

.....
(Name of distributor selling or furnishing the same shall be signed, printed or stencilled on the above line.)
"Per Agent."

Provided, however, that any distributor or dealer selling or delivering kerosene in bulk by means of portable tanks, shall in lieu of the stamp or brand herein provided for, furnish and deliver to the purchaser a sales ticket with certificate containing provisions as above set forth.

If a deputy oil inspector finds that kerosene has a flash point below 120 degrees F. he shall order the receptacles containing such kerosene branded "unsafe for illuminating purposes" and immediately report to the chief oil inspector. (Act Apr. 27, 1929, c. 425, §7.)

3787-8. Specification for furnace oil—certificate.—

Distillates, or other petroleum products under whatever name called which are adapted for use for domestic heating purposes are subject to such inspection and control as the Chief Oil Inspector may direct, and shall conform to the following specifications:

- (a) All petroleum products of the above classification shall be free from foreign matter.
- (b) Further, all petroleum products of the above classification shall not flash below 120 degrees F., nor higher than 350 degrees F., and it shall not fire below 130 degrees F., nor higher than 380 degrees F.
- (c) The gravity shall be from 24 degrees Baume scale and higher.

The instruments to be used in making tests of said petroleum products shall be the Cleveland open cup and the gravity of said petroleum products shall be determined by the Tagliabue standard registered hydrometer Baume scale at a temperature of 60 degrees F.

There shall be printed or stencilled on each can, cask, barrel or tank covering delivery of said petroleum products, the following:

"This is to certify that the petroleum products covered by this sale has a flash test of not below 120

degrees F., and has been inspected and approved by the Chief Oil Inspector.

....."
 (Name of distributor selling or furnishing the same shall be signed, printed or stenciled on the above line.)

"Per Agent."

Provided, however, that any distributor or dealer selling or delivering said petroleum products in bulk by means of portable tanks shall in lieu of the stamp or brand herein provided for furnish and deliver to the purchaser a sales ticket with certificate containing provisions as above set forth. (Act Apr. 27, 1929, c. 425, §8; Apr. 21, 1933, c. 365, §4.)

3787-9. Sales tickets.—All sales tickets shall show plainly the dealer's name and place of business, the dates and amounts of petroleum products purchased, price per gallon and total amount paid for each product, gasoline excise tax paid and shall also be signed by the representative or agent of the distributor or dealer selling such products.

There shall be printed on such sales tickets the complete or abbreviated wording as provided for stencils on cans, casks and barrels in this act. These provisions may be printed on sales tickets as follows:

"This is to certify that the gasoline, kerosene or furnace oil covered by this sale complies with the specifications of the Minnesota oil inspection law, and have been inspected and approved by the chief oil inspector.

....."
 (Name of distributor or dealer shall be printed on the above line.)

"Per Agent."

(Act Apr. 27, 1929, c. 425, §9.)

3787-10. Test.—The chief oil inspector shall make the necessary preparations and arrangements for testing lubricating oil at any of the division laboratories within the state. Any deputy inspector shall cause to be tested at the nearest station equipped for such work any sample of such oil furnished him for such purpose. Thereafter, the deputy inspector so receiving such sample shall in accordance with the rules of the oil inspection division, cause the same to be tested and a report of the result of the test shall be furnished to the person requesting the same. Such test shall be as to viscosity, gravity, flash, fire, and pour points. The methods employed by the American Society for Testing Materials shall govern all such tests; the viscosity to be taken by the Saybolt viscosimeter at two different temperatures, to-wit: 100 degrees and 210 degrees F.

A fee of two dollars shall be paid to the deputy inspector by the person and at the same time the sample to be tested is furnished. Deputy inspectors shall promptly transmit to the chief oil inspector, with a statement of the names and addresses of the persons paying, all moneys so received. On the first day of each month, the chief oil inspector shall deposit with the treasurer all such money, heretofore received by him.

It shall be unlawful for any person to fill any order for a lubricating oil for an internal combustion engine, designated by a trade mark or distinctive trade name, with a spurious or substitute article, unless and until it is explained to the person giving the order that the article offered is not the article that he has ordered, and the purchaser shall thereupon elect to take the substitute article that is being offered to him. (Act Apr. 27, 1929, c. 425, §10.)

3787-11. Inspector and deputies may enter premises for purpose of inspection.—The chief oil inspector and his deputies are empowered and it is hereby made their duty to enter into or upon the premises of all wholesale and retail dealers in, or any vendor of gasoline, kerosene or furnace oil and to inspect the receptacles in which said products are stored; and it is made the duty of all dealers in such products

to keep such receptacles free from water, dirt or other solid matter; and when such receptacles are found to contain water, dirt or other solid matter, the deputy inspector shall make a written order directing that the same be properly cleaned, and upon failure of the owner to comply with said order within ten days from the date thereof, the deputy inspector shall confiscate and cause the contents to be destroyed or removed. And if such deputy inspector shall find or discover on said premises any gasoline, kerosene or furnace oil which shall not have been examined or tested and the containers not properly marked, stamped, sealed or branded, he shall at once proceed to test such products and thereafter give order to the dealer to have such containers stamped, sealed or branded.

Every agent and employe of any railroad company or other transportation company having the custody of books or records showing the shipment or receipt of the gasoline, kerosene or furnace oil mentioned in this act shall give and permit the chief oil inspector and his deputies free access to such books and records for the purpose of determining the amount of gasoline, kerosene or furnace oil shipped and received. Any such agent or employe of any railroad company or other transportation company, refusing or neglecting to comply with these provisions shall be guilty of a misdemeanor. (Act Apr. 27, 1929, c. 425, §11.)

3787-12. Sale of adulterated products forbidden.—The sale of any adulterated gasoline, kerosene or furnace oil is hereby forbidden. The chief oil inspector shall not be required in every case to make a complete analysis of the oils inspected, to ascertain every form of impurities, but whenever in the opinion of the chief oil inspector or any of his deputies it is necessary that any oil shall be more thoroughly analyzed, it shall be his duty to procure a sample of such oil and forward same to the chemist of the department of agriculture for the purpose of a more detailed analysis to determine in what particular impurities or imperfections exist. And if upon such analysis it is demonstrated that impurities or imperfections exist in said oil, which would render the same in any way unfit for the purposes intended, it shall be the duty of the chief oil inspector or any of his deputies to reject such oil for such purposes. It shall be the duty of such chemist to make such analysis without delay and return such sample of oil, together with the report of his official analysis of the same, at the earliest practicable moment to the inspector from whom it was received.

All clerks, bookkeepers, express agents, railroad agents or officials, employes or common carriers or other persons, shall render the oil inspectors; chemists or agents all assistance in their power when so requested. (Act Apr. 27, 1929, c. 425, §12.)

3787-13. Barrels to be branded.—If gasoline, kerosene or furnace oil, after being inspected, shall be placed in barrels, the distributor so doing shall brand each barrel as herein provided.

No distributor shall use as a receptacle for gasoline, kerosene or furnace oil any barrel, tank, or other container previously used for that purpose and having said inspector's brand thereon without first canceling such previous brand, nor shall any distributor falsely brand, mark or otherwise represent any such vessel as containing gasoline, kerosene or furnace oil that has been inspected. Every violation of this section shall be deemed a misdemeanor. (Act Apr. 27, 1929, c. 425, §13.)

3787-14. Fees.—The fees for the inspection of gasoline, kerosene and furnace oil shall be uniform, fixed by the chief oil inspectors, subject to approval of the directing head of the department, of which the chief oil inspector is a part; such fees not to exceed three cents per barrel of fifty gallons.

Provided, that when gasoline, kerosene or furnace oil is shipped outside of the state after inspection has been made, the distributor shipping the same shall be given credit by the inspector for such fees on monthly shipments of fifty barrels or more, when a sworn statement has been furnished the chief oil inspector not later than the fifteenth day of the following month; otherwise no such credit shall be given. (Act Apr. 27, 1929, c. 425, §14.)

"Uniform" requires equality only by inshippers of a particular petroleum product, and inspector may fix a lower fee for inspection of heating or furnace oils than it does for inspection of gasoline or kerosene. Op. Atty. Gen. (325a-7), Mar. 12, 1936.

3787-15. Inspector to mail certificate.—On or before the fifteenth day of each month, the chief oil inspector shall cause to be mailed to each distributor a certified statement of the total amount due from such distributor for inspection fees for the preceding calendar month. Such statement may be combined with the statement of the excise tax on gasoline due from such distributor. There shall be noted upon the records of the chief oil inspector the date of the mailing of such statement which shall be conclusive evidence that the statement was mailed as required by this section. All payments of inspection fees shall be made to the chief oil inspector not later than the twenty-fifth day of the same month in which the statement was mailed, Provided, however, that if any distributor shall fail, refuse, or neglect to promptly and faithfully perform the duties imposed upon him by law, or to make prompt reports, or to promptly pay when due all oil inspection fees, then in that event all accrued oil inspection fees shall forthwith become due and payable, and it shall be the duty of the chief oil inspector to certify the total amount thereof together with penalties and interest to the attorney general for collection as hereinafter provided. All collections of inspection fees made by the chief oil inspector shall be paid to the state treasurer in the same manner as other department receipts are paid. All moneys collected hereunder shall be credited to the revenue fund.

If inspection fees are not paid within the prescribed period, a penalty of ten per cent of the amount thereof shall immediately accrue, and thereafter such amount and penalty shall bear interest at the rate of one per cent per month from the date of delinquency until paid.

On or before the twenty-fifth day of each month, the chief oil inspector shall deliver to the attorney general a certified statement of the amount due from each distributor for delinquent inspection fees and such other information as the attorney general may require. Upon receipt of such statement the attorney general shall bring an action in the district court of Ramsey county or of the county in which the distributor resides to recover the amount due, together with penalty, interest, costs and disbursements. No inspections shall be made for any distributor whose inspection fees have been certified to the attorney general.

On or before the tenth day of each month, the chief oil inspector shall certify to the state auditor the amount due to each of his deputies as compensation for the preceding month; also the items and amounts of all expenses necessarily incurred by him in the performance of his duties, including the cost of blanks, stationery, postage, travel and instruments furnished for testing and branding oils and such salaries, and expenses being duly audited shall be paid by the state.

The chief oil inspector shall make an annual report to the Governor concerning the operations of his department. (Act Apr. 27, 1929, c. 425, §15; Apr. 21, 1933, c. 365, §5; Apr. 26, 1937, c. 479, §1.)

Requirements of this section are not affected by receivership. Op. Atty. Gen., Jan. 10, 1934.

3787-16. Violations—penalties.—Any distributor or any agent or representative of same who fails to notify a deputy inspector in his district of the arrival

of tank cars or other containers as provided for in this act, or uses the products herein made subject to inspection without having the same inspected, shall be guilty of a gross misdemeanor and subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or six months imprisonment or both.

Any person who shall personally or by clerk or agent wilfully adulterate oil used for motor, illuminating, cooking or heating purposes by adding thereto any material, fluid, or substance that is dangerous either in itself or when mixed or blended with said products or which impairs the usefulness of said products, shall be guilty of a gross misdemeanor.

Any person who shall personally or by clerk or agent falsely stamp, seal, brand or mark any cask, barrel, or other package or receptacle for gasoline, kerosene, or furnace oil, or who shall cause the changing, altering or defacing in any manner of any stamp, seal, brand or device affixed to any cask, barrel or other package or receptacle for gasoline, kerosene or furnace oil by any inspector, or who shall refill or use any such cask, barrel, or other package or receptacle having the inspector's seal, mark, stamp or brand thereon, without cancelling or defacing said seal, mark, stamp or brand, and without having the gasoline, kerosene or furnace oil in such cask, barrel, or other package or receptacle properly examined and tested and stamped or marked under the provisions of this act, or who shall offer for sale or sell gasoline, kerosene or furnace oil representing the same to be different in quality or kind than said products actually are as shown by the inspector's certificate of inspection, shall be guilty of a misdemeanor, and any distributor or vendor who shall sell or in any way dispose of any empty cask, barrel or other package or receptacle bearing the inspector's seal, brand or stamp without first thoroughly cancelling, defacing or removing such seal, brand, stamp, mark or other combination thereof, shall be guilty of a misdemeanor.

Charging a higher price for gasoline drawn from one pump than from another at the same place, shall be prima facie evidence that the higher priced product is sold as a better quality gasoline for the purpose for which it is to be used.

(a) Any gasoline that shows, or for which is claimed high test and/or anti-knock characteristics equal to Octane Number 65 or better of the knock rating system adopted by the United States Bureau of Standards, shall be colored by the use of any harmless dye. Any gasoline not showing high test and/or anti-knock standard as specified herein must be sold without the addition of any foreign coloring matter, and no claims of high test and/or anti-knock characteristics may be made for such.

(b) The method used to determine whether a gasoline meets this requirement shall be the one adopted by the U. S. Bureau of Standards or recognized by said Bureau as being the most satisfactory. (Act Apr. 27, 1929, c. 425, §16; Apr. 21, 1933, c. 365, §6.)

3787-17. Construction.—Neither this act nor any of the provisions hereof shall apply to or be construed to apply to foreign or interstate commerce except insofar as the same may be applied under the constitution and laws of the United States. (Act Apr. 27, 1929, c. 425, §17.)

3787-18. Violation a misdemeanor.—Every person who fails or refuses to comply with any provisions of this act shall, except as herein otherwise provided, be guilty of a misdemeanor. (Act Apr. 27, 1929, c. 425, §18.)

3787-19. Provision severable.—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this act. (Act Apr. 27, 1929, c. 425, §19.)

3787-20. Chief oil inspector to be under direction of department head.—The chief oil inspector in the performance of his duties shall at all times be subject to the control of and supervision of the directing head of the department of which the oil inspection division has been made a part by law. The provisions of this act shall be subject to the provisions of Chap-

ter 426, Laws 1925 [§§53-1 to 53-52] or any amendments thereto. (Act Apr. 27, 1929, c. 425, §20.)

Commissioner of agriculture has charge of removal of oil inspectors, and they are subject to his directions and orders. Op. Atty. Gen. (325a-10), Dec. 28, 1934.

3787-21. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 27, 1929, c. 425, §21.)

CHAPTER 21

Inspection of Food and Other Articles

3794. Salaries of dairy and food commissioner and employees.

Commissioner of agriculture may appoint inspectors for purpose of inspecting and examining premises where meat is sold and to determine whether dairy and food laws of state are complied with, but has no authority to appoint a regular meat inspector to inspect home slaughtered and ready dressed meat of a cooperative association to relieve such association of difficulty arising from ordinance of a city prohibiting sale of dressed meat unless inspected by registered inspector. Op. Atty. Gen. (135a-6), Jan. 24, 1935.

3798. Right of inspection.

Director of division of hotel inspection of Department of Health has right to issue order that all persons handling food and catering to public in a bakery and cafe keep his or her person clean and sanitary. Op. Atty. Gen. (238j), July 10, 1936.

3801. Price not collectible.

Seller of infected hogs held not entitled to directed verdict for price. 180M78, 230NW259.

3806. Labeling.

Label on bag of sugar may be a tag. Op. Atty. Gen., Mar. 27, 1933.

Bags of sugar must contain labels showing weight, kind of sugar and name and address of manufacturer or distributor. Op. Atty. Gen., Mar. 27, 1933.

Commissioner exceeded his authority in requiring canners of soaked dried peas to label them as "Below U. S. Standard, low quality, but not illegal," a label "prepared from dried peas" being sufficient. Op. Atty. Gen., Apr. 2, 1934.

3810. Disposition of receipts.

Fines collected under §8335-3 should be paid into the county treasury and not into the state treasury. Op. Atty. Gen. (135a-4), Aug. 3, 1934.

Fines imposed under Pure Food Law in justice court held on Fair Grounds should be remitted to treasurer of State Agricultural Society. Op. Atty. Gen. (266b-9), Oct. 8, 1934.

Justice of the peace is personally responsible for check taken in payment of fine. Op. Atty. Gen. (266b-9), Sept. 5, 1934.

3811. Milk and cream.

Gelatin may not be added to sour cream and butter-milk, even though label declares addition of foreign product. Op. Atty. Gen., May 4, 1933.

Individual selling milk to erosion camp located within city limits must comply with local ordinances. Op. Atty. Gen., July 27, 1933.

3813. Milk and Cream—Sales licensed.—No person shall sell milk or cream without being licensed by the dairy and food commissioner, and the fee for such license shall be \$1.00 for each place or vehicle from which sale is made. Every such license shall expire May 1st, next after its issue; shall be given only to a person owning or leasing the vehicle or place from which sales are to be made, and shall not be transferred. Each license shall be numbered and shall contain the name, residence and place of business of the licensee, the names of all employees authorized to act thereunder, and the number of vehicles and places to be used. The name and number of the license shall be plainly inscribed on both sides of each vehicle in use for the purpose aforesaid, and the license shall be conspicuously posted in each place where such milk or cream is sold, and the making of every sale from the vehicle not so inscribed or from a place where such license is not so posted, shall be deemed the commission of a misdemeanor. Provided that any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor. And provided that

no permit, inspection, or other authorization shall be required of such person unless the cost thereof is paid by the municipality, agency or board requiring the same. ('21, c. 495, §24; Apr. 20, 1935, c. 217.)

The title of the act calls for the amendment of "section 3813," but the enacting part calls for the amendment of "section 3183." At the beginning of the section as amended the number "3813" appears.

A restaurant that sells milk and cream only as a part of meal is required to take out a milk license. Op. Atty. Gen., Jan. 15, 1934.

This section as amended does not affect or supersede Willmar City Ordinance No. 259, except insofar as the ordinance applies to sellers of milk and cream who are required to obtain license under this section. Op. Atty. Gen. (290j-6), June 26, 1935.

Municipalities may require retail places, plants or vehicles where sales are carried on to pay license fees to cover expense, except as to producers selling their own milk or cream. Op. Atty. Gen. (290j-6), Oct. 2, 1935.

Section applies to all municipalities, whether operating under a home rule charter or not. Id.

3815. Milk and cream sold and purchased by weight, etc.

Interstate shipments of cream are subject to state law when reaching final destination. Op. Atty. Gen. (135b-6(f)), Apr. 12, 1934.

A cooperative creamery association may be prosecuted for violation of state dairy and food law, and employee thereof violating law may also be prosecuted, but officers of corporation should not be taken into custody by officer serving summons, corporation, and not officers being prosecuted. Op. Atty. Gen. (494b-10), Jan. 8, 1935.

3820. Local inspection.

Municipality may impose license on producers and dealers selling milk in its limits, except as power may be affected by Const., Art. 1, §18. Op. Atty. Gen., Dec. 11, 1929.

Ordinances may provide for inspection both as to producers and dealers in milk sold in municipality and require payment of inspection fee. Op. Atty. Gen., Dec. 11, 1929.

City of Albert Lea may require milk producers to pay part of expense of inspections, but it may not prohibit sale of milk in city by producers outside of specified inspection zone. Op. Atty. Gen., May 13, 1932.

Municipalities may by ordinance provide, for inspection of milk, cream and butter sold within their limits. Op. Atty. Gen., July 10, 1933.

Municipalities may require retail places, plants or vehicles where sales are carried on to pay license fees to cover expense, except as to producers selling their own milk or cream. Op. Atty. Gen. (290j-6), Oct. 2, 1935.

Fees imposed in connection with municipal regulations designed to protect public health may not be substantially in excess of actual cost of inspection, registration, testing, etc., necessarily incurred. Op. Atty. Gen. (477b-17), July 9, 1937.

Charging a local resident within five miles of village a fee of \$1 and requiring a license fee of \$25 from persons who lived more than five miles from village is an unreasonable and arbitrary distinction, rendering ordinance invalid. Id.

Power of municipality to exclude sale of milk from outside plants under municipal health ordinances. 18 MinnLawRev841.

3821. Butter fat content of butter.—No person shall manufacture, for sale, or sell, or have in possession with intent to sell, any dairy or creamery butter which contains less than 80 per cent butter fat by weight. (As amended Mar. 2, 1937, c. 55, §1.)

3821-5. Commissioner of agriculture to audit books in certain cases.—Whenever complaint shall be made to the Commissioner of Agriculture that any person, firm or corporation is violating the provisions of Chapter 162 of the Laws of 1927 [§§3821-1 to 3821-4], and/or whenever the Commissioner of Agriculture