

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.



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR.
R. O. MASON
J. S. O'BRIEN
H. STANLEY HANSON
R. O. MASON, JR. } Assistant Editors

MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1938

missioner forthwith to revoke and cancel the license of the person so convicted. (Act Apr. 25, 1931, c. 394, §16.)

6240-18½p. Commissioner to enforce act.—The Commissioner shall be charged with the enforcement of the provisions of this Act and of the rules and regulations made and published thereunder. Upon complaint made it shall be the duty of the county attorney to prosecute all cases arising in his county for violation of this act or of the rules or regulations made and published thereunder. The Commissioner and his duly authorized agents and inspectors appointed for the purpose of enforcing the provisions of this act shall have the power of police officers in the enforcement of this act. (Act Apr. 25, 1931, c. 394, §17; Apr. 15, 1935, c. 186, §3.)

Duty imposed on the commissioner of agriculture, generally to enforce law against wholesale dealers in produce as in case of one unlawfully doing business without a license, involves exercise of judgment and discretion and so is not in class of ministerial official duties, non-performance of which may result in liability to one proximately damaged by nonfeasance. Cook v. T., 274 NW165. See Dun. Dig. 8001.

Wholesale dealers shipping potatoes in violation of labeling act should be prosecuted in county where potatoes are loaded and billed. Op. Atty. Gen., Mar. 21, 1933.

6240-18½q. Law repealed.—Chapter 427, General Laws 1927 [§§6240-1 to 6240-18], and all other acts and parts of acts inconsistent with this Act are hereby repealed. (Act Apr. 25, 1931, c. 394, §18.)

6241. Commissioner of agriculture authorized to make investigations.

Powers conferred upon the Commissioner under this section are not applicable to any investigation which the Commissioner may institute under §10390. Op. Atty. Gen., Oct. 15, 1931.

FARM BUREAUS

6248. Fees.

Justice court has no jurisdiction where penalty exceeds three months' imprisonment. Op. Atty. Gen. (266b-21), July 15, 1937.

DISCRIMINATION IN PURCHASE OF FARM PRODUCTS

6248-1. Terms and phrases.

There is no violation of this law by a local wholesale egg dealer who refuses to buy eggs from merchant at as high a price as he pays to farmers. Op. Atty. Gen. (135a-3), Aug. 26, 1935.

6248-2. Definitions.—(a) The term "person" means as individual, firm, copartnership, corporation or association.

(b) The term "farm products" as used in this act shall mean and include butter, milk, cream, butterfat, cheese and other dairy products, honey, eggs, poultry and all livestock and products of livestock such as wool, mohair, hides and meats.

(c) The term "bona fide competitor" means a duly licensed dealer in farm products maintaining a place of business in the same trade territory. (As amended Apr. 24, 1937, c. 420, §1.)

6248-3. Discrimination prohibited.—Any person engaged in the business of buying any such farm products for manufacture or sale thereof, who shall discriminate between different sections, localities, communities, cities or villages, or between persons in the same community, of this state, by purchasing any such farm products at a higher price or rate in one locality or from one person than is paid for such farm products of the same kind, quality and grade by such person in another section, locality, community, city or village, or than is paid to another person of the same community, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture or sale, or who shall fail to deduct full transportation costs from the purchase price paid; or who shall fail to deduct the actual costs of hauling when such products are gathered by wagon or truck; or who shall pay or offer to pay in trade or in exchange for goods, wares or merchandise a higher price for such farm products than the cash price paid or offered to be paid for such farm products, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. Providing, however, that wherever the transportation costs actually charged for hauling cream shall be two cents or more per pound for butterfat therein contained, and 15 cents per 100 pounds for transportation of whole milk, such charge shall be deemed a compliance with the terms of this act. It shall not be unfair discrimination for any person to pay, in any section, locality, community, city, or village, a price equal to that actually paid on the same day by any bona fide competitor in such place for farm products of the same kind and grade, provided such price is paid in good faith effort to meet such competition, and the burden of proving such facts shall be upon the defendant. (As amended Apr. 24, 1937, c. 420, §2.)

A creamery operating cream routes for only part of patrons and paying a portion of expense thereof out of general fund, held not guilty of discrimination between patrons. Op. Atty. Gen., Nov. 24, 1933.

A person buying cream in connection with a grocery business can pay farmer two cents more for butter fat if he trades it out in groceries than if he were to pay it out in cash. Op. Atty. Gen., Feb. 14, 1934.

This act has no application to a buyer of cream having his place of business in municipality and purchasing cream only at his place of business, but only as application to discrimination as between different communities. Op. Atty. Gen. (135a-3), Aug. 16, 1935.

An Iowa plant hauling eggs from their own stations in Minnesota to the locality of sale in Iowa should deduct all transportation costs from Minnesota stations to Iowa plant. Op. Atty. Gen. (681e), May 18, 1937.

Laws 1937, c. 420, amending this section is constitutional. Id.

6248-9. Construction of act.—Nothing in this act shall be construed as repealing any other act or part of any other act, unless inconsistent herewith, but the remedies herein provided shall be cumulative to all other remedies provided by law. If any section, subdivision, sentence or clause in this act shall, for any reason, be held to be unconstitutional or void, such judgment shall not affect the validity of any other portion of this act. (As amended Apr. 24, 1937, c. 420, §3.)

CHAPTER 39

Bounties and Rewards

6254. Bounties on wolves.—(a) Every person who shall kill a wild wolf in this state, not having at the time spared the life of any other such wolf he could have killed, shall upon compliance with the provisions of this act, be rewarded in the sum of fifteen dollars for each adult animal and six dollars for each cub, to be paid by the state out of the revenue fund or such other funds as may be appropriated therefor by law.

(b) Any county board may add to such reward and appropriate county funds therefor.

(c) For the purposes of this act any wolf killed before September 1st of the year in which it was born shall be deemed to be a cub, and any wolf killed on or after said date, if physically mature, though not full grown, shall be deemed to be an adult wolf. (R. L. '05, §2397; '07, c. 381, §1; G. S. '13, §5197; '23, c. 103, §1; Apr. 25, 1931, c. 368, §1.)

6255. Claim when and how made.—(a) Within thirty days after the killing, the claimant shall pro-

duce the entire carcass of the animal in the presence of two witnesses, to the clerk of the town, wherein the animal was killed, or, if the animal was killed in unorganized territory, to the nearest town clerk in the same county, and shall make and deliver to the town clerk a written statement of his claim under oath, in duplicate, describing the animal as adult or cub, as the case may be, specifying the time and place of the killing thereof by the claimant, and stating that he did not on that occasion spare the life of any wild wolf he could have killed. All animals produced at any one time shall be included in one statement.

(b) The clerk shall examine each carcass produced in the presence of witnesses, and shall make such further investigation as may be necessary to verify the statements of the claimant. For the purposes of such investigation the clerk may examine under oath with respect to any pertinent matter the claimant and any other persons having knowledge of the facts, and may attach a statement of such investigation and examination to the statement of the claim. The toes of both front feet of the animal shall then be removed in the presence of the clerk and the two witnesses.

(c) The claimant may then remove the hide, including the scalp and ears, and shall then bury, destroy, or otherwise properly dispose of the remainder of the carcass. (R. L. '05, §2398; G. S. '13, §5198; Apr. 25, 1931, c. 368, §2.)

6256. Town clerk to issue certificate.—The town clerk, if satisfied that the statements of the claimant are true, that the requirements of the law have been complied with, and that the claimant is entitled to the reward claimed, shall make a certificate in duplicate so stating, and specifying that the requirements of the preceding section have been complied with. Both duplicates of the certificate shall be attested by the two witnesses and one shall be attached to each duplicate of the statement of the claim. All animals produced at any one time shall be included in one certificate. Both duplicates of the certificate and statement shall be delivered to the claimant, who shall pay a fee of thirty-five cents therefor. The clerk shall keep a record of all certificates issued by him, showing the date of issuance of each certificate, name of claimant, number and kind of animals killed, and date and place of the killing thereof. (R. L. '05, §2399; '07, c. 298; G. S. '13, §5199; Apr. 25, 1931, c. 368, §3.)

6257. Duties of county and state auditor.—(a) The claimant shall produce both duplicates of the statement and certificate, together with the hide of each animal described therein, with scalp and ears intact, to the county auditor. The auditor shall examine the same, and, if he finds that the statement and certificate are in proper form, and if he is satisfied that the hides produced are those of the animals described in the statement and certificate, that the requirements of the law have been complied with, and that the claimant is entitled to the reward claimed, he shall punch a three-eighths inch hole in each ear of each hide presented, and shall issue to the claimant a warrant upon county treasurer for the sum due. If any reward is offered by the county, a separate warrant shall be issued therefor. The auditor shall certify by indorsement upon both duplicates of the statement that the foregoing provisions of this section have been complied with, stating also the number, date and amount of each warrant issued in payment of the claim.

(b) The hides produced shall be returned to the claimant. Any transportation charges thereon shall be paid by the claimant.

(c) After issuing the warrant for the state reward the county auditor shall transmit one of the duplicates of the statement and certificate and a copy of the warrant, with a certificate by him stating that the warrant has been issued and requesting reim-

bursement therefor, to the state auditor, who shall thereupon issue and return his warrant upon the state treasurer in favor of the county for the amount paid.

(d) The county auditor shall keep a record of all claims for such rewards allowed and paid by him, showing the same items as hereinbefore specified for the records of the town clerk, also the numbers, dates, and amounts of all warrants issued in payment of such claims, specifying whether for state or county rewards. (R. L. '05, §2400; G. S. '13, §5200; Apr. 25, 1931, c. 368, §4.)

6258. Penalties.—Every person who shall fraudulently claim or obtain any reward for the killing of a wolf, or issue any fraudulent or unauthorized certificate or warrant therefor, or claim reward upon a wolf which he has in any way protected, or upon any tame or captive wolf, either full blood or crossed, or upon the offspring of any tame or captive wolf, shall be guilty of a gross misdemeanor, the punishment for which shall be a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not less than sixty days nor more than six months, or both such fine and imprisonment; provided, that the provisions of this section shall not be deemed to supersede or to exclude the operation of any other penal law which may be applicable. (R. L. '05, §2401; G. S. '13, §5201; Apr. 25, 1931, c. 368, §5.)

6259. Gophers, rattlesnakes, crows, etc.

Town need not pay bounties on gophers and crows which were killed outside the town. Op. Atty. Gen., Mar. 18, 1931.

6260. What must be produced, etc.

Town need not pay bounties on gophers and crows which were killed outside the town. Op. Atty. Gen., Mar. 18, 1931.

6260-1. County board may pay bounty on grey foxes.—Any county board may by resolution offer a bounty for the destruction of grey foxes. The resolution may be made to cover the whole or any part of the county, and may be annually renewed, but it shall have force and effect only during the calendar year in which it is adopted or renewed. (Act Apr. 24, 1931, c. 309, §1.)

6260-2. Claimant shall produce body.—Within 30 days after the killing, the claimant shall produce the entire carcass of the animal in the presence of two witnesses to the clerk of the town wherein the animal was killed, or, if the animal was killed in unorganized territory, to the nearest town clerk in the same county, and shall make and deliver to the town clerk a written statement of his claim under oath in duplicate, describing the animal as adult or cub, as the case may be, specifying the time and place of the killing thereof by the claimant, and stating that he did not on that occasion spare the life of any grey fox he could have killed. All animals produced at any one time shall be included in one statement.

The clerk shall examine each carcass produced in the presence of the witnesses, and shall make such further investigation as may be necessary to verify the statements of the claimant. For the purposes of such investigation the clerk may examine under oath with respect to any pertinent matter the claimant and any other persons having knowledge of the facts, and may attach a statement of such investigation and examination to the statement of the claim. The toes of both front feet of the animal shall then be removed in the presence of the clerk and the two witnesses.

The claimant may then remove the hide, including the scalp and ears, and shall then bury, destroy or otherwise properly dispose of the remainder of the carcass. (Act Apr. 24, 1931, c. 309, §2.)

6260-3. Town clerk to make certificate.—The town clerk if satisfied that the statements of the claimant are true, that the requirements of the law have been complied with and that the claimant is entitled to the bounty claimed, shall make a certificate in dupli-

cate so stating, and specifying that the requirements of the preceding section have been complied with. Both duplicates of the certificate shall be attested by the two witnesses and one shall be attached to each duplicate of the statement of the claim. All animals produced at any one time shall be included in one certificate. Both duplicates of the certificate and statement shall be delivered to the claimant, who shall pay a fee of thirty-five cents therefor. The clerk shall keep a record of all certificates issued by him, showing the date of issuance of each certificate, name of claimant, number and kind of animals killed, and date and place of the killing thereof. (Act Apr. 24, 1931, c. 309, §3.)

6260-4. Certificate to be presented to county auditor.—The claimant shall produce both duplicates of the statement and certificate, together with the hide of each animal described therein, with scalp and ears intact, to the county auditor. The auditor shall examine the same, and if he finds that the statement and certificate are in proper form, and if he is satisfied that the hides produced are those of the animals described in the statement and certificate, that the requirements of the law have been complied with and that the claimant is entitled to the bounty claimed, he shall punch a three-eighths inch hole in each

ear of each hide presented, and shall issue to the claimant a warrant upon the county treasurer for the sum due.

The county auditor shall keep a record of all claims for such rewards allowed and paid by him, showing the same items as hereinbefore specified for the records of the town clerk, also the numbers, dates, and amounts of all warrants issued in payment of such claims, specifying whether for state or county rewards (Act Apr. 24, 1931, c. 309, §4.)

6260-5 Fraudulent claims—penalties.—Every person who shall fraudulently claim or obtain any bounty for the killing of a grey fox, or issue any fraudulent or unauthorized certificate or warrant therefor, or claim reward upon a grey fox which he has in any way protected, or upon any tame or captive grey fox, or upon the offspring of any tame or captive grey fox, shall be guilty of a gross misdemeanor, the punishment for which shall be a fine of not less than \$100.00 nor more than \$500.00, or imprisonment in the county jail for not less than 60 days nor more than six months or both such fine and imprisonment; provided, that the provisions of this section shall not be deemed to supersede or to exclude the operation of any other penal law which may be applicable. (Act Apr. 24, 1931, c. 309, §5.)

CHAPTER 40 Public Lands

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates a new department of conservation, to which is transferred the powers of the state auditor and commissioner of the state land office with respect to the public lands.

SALES BY AUDITOR [DEPARTMENT OF CONSERVATION]

6261. School lands—Price.

State cannot be estopped to claim a judicial cancellation of certificates where timber-bearing school land was sold as agricultural land without separate sale of timber, or the collection in cash of the value thereof. State v. Hamre-Hogenson Holding Co., 183M318, 236NW456. See Dun. Dig. §3211.

6277. Appraisal of school or other state lands—appointment of appraisers—appraisals—sales—homesteaders—improvements—contests.—Whenever in the opinion of the Commissioner of Conservation of the State of Minnesota it will be for the public interest that an appraisal of any of the school or other state lands should be made, he shall appoint one appraiser, who shall be one of the regularly employed state appraisers, and notify the Governor, who shall appoint one appraiser. Such appointment shall be made within 30 days after such notice. Each appraiser shall, before entering upon the duties of his office, take and subscribe an oath, before any person qualified to administer oaths, that he will faithfully and impartially discharge his duties as appraiser, according to the best of his ability, and that he is not interested directly or indirectly in any of the school or other state lands or improvements thereon, and has entered into no combination to purchase the same or any part thereof, which said oath shall be attached to the report made of such appraisal, said appraisers after taking oath of office shall proceed to view and appraise such lands and the improvements thereon and make a report thereof to the Commissioner of Conservation as he may direct. The valuation of such lands and the timber shall each be made and stated separately in the appraisement, and the minimum price established by such appraisal shall be the minimum price for such lands until changed by subsequent appraisal. No school or other state lands shall be sold until so appraised, nor for a less price than five (\$5.00) dollars per acre. The Commissioner of Conservation shall hold frequent sales of school and other state lands, the time and

place of such sales to be publicly posted on the front door of the court house in the county in which the sale is to take place at least 30 days in advance of such sale, in addition to the regular notice of sale provided by law. At said sale the Commissioner of Conservation shall sell such lands as he considers for the public interest. Where land mainly valuable for agricultural purposes, as shown by the appraisement and other reports in the office of the Commissioner of Conservation contains only small quantities of pine, tamarack, and other timber the Commissioner of Conservation may in his discretion either sell the timber separately in the manner provided by law for state timber sales, or he may sell the land as agricultural land, requiring the purchaser to pay down as first payment an amount equal to the value of the timber, in addition to the 15 per cent first payment required on the land. It shall be the duty of the appraisers to report to the Commissioner of Conservation such lands as in their opinion should be drained. After the state has constructed or has been assessed for any public ditch or drain, the lands hereby assessed or improved shall thereafter be re-appraised before being offered for sale. Provided, that if the improvements upon said lands were made by one who in the opinion of the Commissioner of Conservation settled upon said land in good faith believing it to be land subject to homestead entry under the laws of the United States, and such settlement was made before the land was certified to the state, or if the improvements upon said land were made by a lessee thereof, or if such improvements were made by one who in the opinion of the Commissioner of Conservation did so in good faith, believing he had a legal right so to do, then the value of such improvements shall be appraised separately, and if at the sale of such land the settler or the lessee of the state who made the improvements shall be the purchaser, he shall not be required to pay for such improvements; but if a person other than such bona fide settler or lessee of the state purchase said land and the improvements at such sale, said purchaser shall pay to the state within 30 days the full amount for which improvements are appraised and the amount so received by the state for such improvements shall be paid over to such settler or lessee of the state, his heirs or assigns by