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Containing the text of the acts of the *1929, 1931, 1933, 1935, 1937* and *1939* 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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CHAPTER 36
Protection against Fire, and Regulation of Hotels and Restaurants

HOTELS, THEATERS AND OTHER BUILDINGS

5903. Defining hotels, restaurants, lodging houses, boarding houses, places of refreshment, and original container—religious and college buildings.—Every building or structure or enclosure, or any part thereof, kept, used as, maintained as, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public whether with or without meals and furnishing accommodations for periods of less than one week shall for the purpose of this act be deemed an hotel.

Every building or other structure or enclosure, or any part thereof and all buildings in connection, kept, used or maintained as, or advertised as, or held out to the public to be an enclosure where meals or lunches are served without sleeping accommodations, and furnishing accommodations for periods of less than one week, shall for the purpose of this act be deemed to be a restaurant, and the person or persons in charge thereof, whether as owner, lessee, manager or agent, for the purpose of this act shall be deemed the proprietor of such restaurant, and whenever the word "restaurant" shall occur in this act, it shall be construed to mean such structure as described in this section.

Every building or structure, or any part thereof, kept, used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public, shall, for the purpose of this act, be deemed a lodging house.

Every building or structure or enclosure, or any part thereof, used as, maintained as, or advertised as, or held out to be an enclosure where meals or lunches are furnished to five or more regular boarders for periods of one week or more, shall for the purpose of this act, be deemed a boarding house. Every building or structure, or any part thereof, used as, maintained as, or advertised as, or held out to be a place where confectionery, ice cream, sandwiches, or drinks of various kinds are made, sold or served at retail, shall, for the purpose of this act, be deemed to be a place of refreshment. Provided, however, that a general merchandise store or grocery store retailing or serving ice cream, soft drinks or foods of any kind, if such foods and soft drinks are sold and delivered to the public in an original container and the purchaser thereof consumes the contents directly from the original container, shall not be deemed a place of refreshment within the meaning of this act. The term "original container," as used in this act, shall be construed to mean any carton, box, wrapper, package, pail, can, jar, keg, glass, bottle, or other thing in which the manufacturer, wholesaler, or distributor has placed and entirely enclosed said ice cream, drinks, or other refreshments, before delivery to the retailer and shall also be construed to include any straw, spoon, fork, or other eating and drinking utensil, placed in the container by the manufacturer, wholesaler, or distributor at his place of business and before delivery to the retailer. This act shall not be construed to apply to any building constructed and primarily used for religious worship, nor to any building used for the housing of college or university students in accordance with regulations promulgated by such college or university. ('19, c. 499, §1; Mar. 29, 1935, c. 77; Apr. 24, 1935, c. 274, §1; Jan. 18, 1936, Ex. Ses., c. 36, §1.)

Act Apr. 24, 1935, c. 274, §1, purports to amend the last two paragraphs as a part of §5905. This is immediately followed by a paragraph amending §5905. This seems to be the result of a clerical error in preparing the enrolled bill. This defect is cured by the amendment of Jan. 18, 1936, cited.

It would seem that this section is not limited to stores wherein confectionery is sold to be consumed on premises. Op. Atty. Gen., Mar. 7, 1933.

Park board of village of Excelsior may be licensed to sell non-intoxicating malt liquors. Op. Atty. Gen., Apr. 22, 1933.

Whether particular business is restaurant within meaning of beer law is primarily question of fact to be determined by governing body of municipality. Op. Atty. Gen., June 26, 1933.

Whether a residence advertised as a tourist rooming house is a hotel is question of fact. Op. Atty. Gen., Aug. 14, 1933.

Laws 1935, c. 77, amending this section was in turn repealed by Laws 1935, c. 274, the two acts being absolutely inconsistent. Op. Atty. Gen. (238d), May 16, 1935.

The first amendment to §5905 as contained in Laws 1935, c. 274, was intended as an amendment of the last two paragraphs of this section and should be considered as an amendment thereof. Op. Atty. Gen. (238d), May 16, 1935.

Buildings used for housing of college or university students are exempt. Op. Atty. Gen. (238k), Mar. 6, 1936.

Lunchroom for employees and their guests only must have restaurant license. Op. Atty. Gen. (238j), Jan. 5, 1937.

Filling station selling soft drinks in bottles and furnishing straws must have a refreshment license. Op. Atty. Gen. (238g), Jan. 18, 1938.

Whether a concession stand in a public park is a "restaurant" which may sell malt liquor is a question of fact for city council in first instance. Op. Atty. Gen. (217f-1), Mar. 16, 1938.

One operating a combined grocery store and filling station and selling soft drinks is not required to have a license. Op. Atty. Gen. (634b), June 2, 1938.

County fair association must have refreshment license if it desires to sell soft drinks. Op. Atty. Gen. (634b), Aug. 23, 1938.

Gasoline filling station selling soft drinks in original containers must have a license. Op. Atty. Gen. (238g), Jan. 20, 1939.

5905. Hotels, restaurants, lodging houses, boarding houses, and places of refreshment to be licensed—fees.—Within sixty days after the passage of this act and each year thereafter, every person, firm or corporation now engaged in the business of conducting an hotel, restaurant, lodging house, boarding house or place of refreshment, and every person, firm or corporation who shall hereafter engage in conducting such business, must procure a license for each hotel, restaurant, lodging house, boarding house, or place of refreshment, so conducted, provided that one license shall be sufficient for a combination of an hotel and restaurant, lodging house, boarding house, and place of refreshment, where such businesses are conducted in the same enclosure and under the same management. Each license shall expire on the 31st day of December next following its issuance, and any proprietor who operates a place of business as defined herein after January 1st following, without first having made application for a license and without having made payment of the fee thereof, shall have violated the provisions of this act and is subject to prosecution as provided herein, and in addition thereto, a penalty of one dollar and fifty cents ($1.50) shall be added to the amount of the license fee and paid by the proprietor as provided herein if the said application has not reached the office of the Division of Hotel Inspection of the State Board of Health on or before January 31st following the expiration of license, or, in the case of a new business, thirty days after the opening date of such business. The Hotel Inspector shall furnish to any person, firm or corporation desiring to conduct an hotel, restaurant, lodging house, boarding house or place of refreshment, an application blank to be filled out by such person, firm or corporation for a license therefor, and which shall require such applicant to state the full name and address of the owner of the building, structure or en-

closure, the lessee and manager of such hotel, restaurant, lodging house, boarding house or place of refreshment, together with a full description of the enclosure to be used or proposed to be used for such business, the location of the same, the name under which such business is to be conducted, and such information as may be required therein by the Hotel Inspector to complete such application for license, and such application shall be accompanied by a license fee of $3.50 and all such fees shall be turned into the State Treasury on the first day of January, April, July and October of each year. '19, c. 499, §3; Apr. 24, 1935, c. 274; Jan. 18, 1936, Ex. Ses., c. 36, §1.)

Section 4367 does not exempt war veterans from payment of fees for licenses, for hotels, restaurants, lodging houses, boarding houses, or places of refreshment. Op. Atty. Gen., May 25, 1932.

Operators of hotels, restaurants and places of refreshment within boundaries of Red Lake Reservation who do not confine their trade to Indian wards but who are either white men or Indians not under federal control must have licenses under this section. Op. Atty. Gen., May 19, 1933.

Right to lien upon baggage is not predicated on license. Op. Atty. Gen., Mar. 19, 1934.

Municipal liquor store must have refreshment license. Op. Atty. Gen. (238g), May 21, 1934.

"On Sale" liquor establishment must obtain a refreshment license from inspection department. Op. Atty. Gen. (218g-6), June 5, 1934.

The first amendment to this section as contained in Laws 1935, c. 274, was intended as an amendment to the last two paragraphs of §5903 and should be given that effect. Op. Atty. Gen. (238d), May 16, 1935.

Any person conducting a lodging house previous to April 24, 1935, but not within terms of §5903, who came within the terms of Laws 1935, c. 214, had 60 days from April 24 to obtain a license. Op. Atty. Gen. (238k), Oct. 22, 1935.

Hotel in a fourth class city is not required to have any further hotel license than regular hotel meal license as all restaurants have, but it may need various types of licenses as for milk and cigarette sales. Op. Atty. Gen. (596b-3), June 24, 1936.

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.

5907. Plumbing, lighting, heating, etc.

A guest in a hotel, injured by stumbling down a short, unlighted stairway in hallway just outside door of his room, held entitled to recover as for negligence. Gustafson v. A., 194M575, 261NW447. See Dun. Dig. 4513.

Violation of this section, if proximate cause of injury, establishes liability in absence of contributory negligence or assumption of risk. Jewell v. B., 199M267, 271NW461. See Dun. Dig. 4513.

Trap door in lavatory in restaurant held not a nuisance, nor so faulty in design or construction that landlord could be held responsible for creation of an unreasonable risk to patrons of lessee. Lyman v. H., 203M 225, 280NW862. See Dun. Dig. 5369(39).

Contributory negligence of hotel guest in going down unlighted steps at entrance held for jury. Id.

Board of health cannot compel restaurants or places of refreshment to provide toilets or hot and cold running water. Op. Atty. Gen. (238g), Nov. 5, 1935.

5908. Fire protection to be provided.

Section 5908 applies to hotels and lodging houses two stories in height while §5909 applies to hotels and lodging houses more than two stories in height. Op. Atty. Gen., Jan. 2, 1934.

5909. Additional fire protection in larger hotels, etc.

Op. Atty. Gen., Jan. 2, 1934; note under §5908.

This section supersedes §1630-56 insofar as it refers to outside standpipes in hotels and lodging houses. Op. Atty. Gen., July 24, 1933.

5910. Iron stairways for exit, and other provisions.

Fire escape which has as only exit a room containing a door which may be locked does not comply with statute. Op. Atty. Gen., May 8, 1933.

Hotel inspector being satisfied that interior stairway is fireproof may cancel outstanding fire escape order. Op. Atty. Gen., Aug. 23, 1933.

Lessees are responsible for compliance with order issued against theaters and public halls, but owners are liable for compliance with respect to other buildings. Op. Atty. Gen. (238), May 6, 1937.

5911. Revocation of license.—It shall be the duty of the State Hotel Inspector to revoke a license, if and when it be found by the Hotel Inspector that a place of business as defined herein is being operated in violation of the provisions of this Act so as to constitute a filthy, unclean and unsanitary condition and dangerous to public health, or if the owner or proprietor persistently refuses or fails to comply with the provisions of this Act. Upon such revocation of license, the said place of business shall be immediately closed to public patronage until such a time that the owner or proprietor shall have complied with the provisions of this Act, as certified to by the issuance of a new license.

The third such revocation of license in any one year and on any one proprietor shall be made permanent for a period of one year from the date of the last revocation. ('19, c. 499, §9; Apr. 24, 1935, c. 274.)

Where a license is granted to a proprietor after revocation of a previous one, it is proper to collect another fee of $3.50 for the new license. Op. Atty. Gen. (238f), May 29, 1935.

Licensee should be served with a written notice specifying charges against him and setting a date for a hearing at which licensee may be heard. Id.

5915. Payment of alterations.

"Changes" referred to are those ordered by state hotel inspector. Lyman v. H., 203M225, 280NW862. See Dun. Dig. 4513.

Lessees are responsible for compliance with order issued against theaters and public halls, but owners are liable for compliance with respect to other buildings. Op. Atty. Gen. (238), May 6, 1937.

MOVING PICTURES

5934. Style of seats.

Injury to patron from falling of disconnected seat. 181M109, 231NW716.

5940. Licenses for operation of moving picture machines or exhibition of moving pictures—Application for—Fees—Issue of licenses—Transfer—Itinerant exhibitions—Permits—Bonds—Fees.—On and after the first day of September, 1917, it shall be unlawful for any person to operate a moving picture machine or to exhibit moving pictures in any building, theatre or hall to which the public is admitted or in any other place of public entertainment or amusement within this state unless the owner, lessee, occupant or agent of said place has been licensed by the state fire marshal to use such place for such purpose. The application shall be made and presented at least 30 days prior to the date when the license is desired to go into effect, to the end that the fire marshal may make the necessary investigation and inspection before the license issues. The license fee shall be five dollars for the year and each application shall be accompanied by the license fee. Every license shall expire on the first day of September each year. The state fire marshal upon application therefor shall furnish to any person desiring a license an application blank upon which the applicant shall state the full name and address of the applicant or applicants and if it be a corporation, the names and addresses of the principal officers thereof, whether such applicant be the owner, lessee, occupant or agent of the building for which a license is desired, the location and a full description of the property and the building and the room within the building to be used or proposed to be used for the exhibition of moving pictures, and such other information as may be required to be contained therein by the state fire marshal. Every application shall be verified by the applicant for such license and such verified application shall be prima facie proof of the facts therein stated.

Upon receipt of such application, the state fire marshal shall make such investigation as he shall deem necessary and shall grant a license to such applicant unless it appears to him that the provisions of this act are being violated or are about to be violated. The license thus granted shall not be transferable to any other building, room or place than that stated in the license. The state fire marshal in his discretion and under such regulations and conditions as he may prescribe therefor, may grant a permit for the exhibition of moving pictures in an unlicensed building, and without a formal license therefor, for not more than seven consecutive days, such exhibitions are to be given solely for religious, benevolent, educational or

scientific purposes. No license shall be granted except after examination by the state fire marshal or his authorized deputy or agent, provided, however, that the state fire marshal may issue a temporary license upon the verified application herein provided for, which shall be good until revoked for cause or until a permanent license is substituted therefor. There shall be deducted from the fee for such permanent license a part thereof proportionate to the unexpired portion of the year for which the temporary license was granted. Provided that all public exhibition of moving pictures in any place except a building shall be subject to such rules, conditions and regulations in addition to those provided by law with reference to the safety of the public as the fire marshal may deem necessary. Any person, firm or corporation giving such public exhibitions of moving pictures in any place except a building shall be classified as itinerant moving picture exhibitions. No such person, firm or corporation shall give any such public moving picture exhibition at any place except under a permit from the fire marshal authorizing such exhibition, and after said person or firm or corporation has made and executed a bond of indemnity to the state of Minnesota in such sum as the fire marshal may approve, conditioned to pay any and all liability for damages ensuing through the negligence of such exhibitor. The fee for each such permit shall be five dollars. Provided, however, that no licenses nor bond shall be required nor necessary to operate a moving picture machine or to exhibit moving pictures by any firm, person, association or corporation in any village having a population of less than 700 inhabitants where no admission charge is made therefor and where there is no licensed moving picture business. ('17, c. 466, §21; '25, c. 399; Apr. 11, 1935, c. 155.)

An application for motion picture operator's license can be made by mail. Op. Atty. Gen., Mar. 6, 1933.

Parent and teachers' associations may show motion pictures without obtaining license, but must obtain permit from fire marshal. Op. Atty. Gen., Mar. 20, 1933.

Fire marshal in granting license to itinerant motion picture exhibitor need not consider §§1929-1 to 1929-5. Op. Atty. Gen. (197d), June 25, 1934.

Fee having once been paid, it may not be refunded, or the subject of a credit upon a subsequent license, even though the theatre in connection with which a license was issued never opened for business and license was returned at request of fire marshal. Op. Atty. Gen. (197d), Aug. 15, 1934.

Exhibitor showing pictures out of doors in municipalities of less than 700 without moving picture theatres is not required to obtain license, permit, or bond, no admission being charged, though local merchants compensate exhibitor. Op. Atty. Gen. (197d), Sept. 1, 1939.

STATE FIRE MARSHAL

5955. Officers to investigate origin of fires.

State fire marshal has no power to hire persons to assist in investigation of arson cases and bind the county for payment thereof. Op. Atty. Gen. (197a), Aug. 30, 1937.

There is no statute authorizing sheriff to hire persons in investigation of arson cases and bind county for payment of their services except insofar as he is authorized to appoint special deputies who would receive their compensation as such deputies. Id.

Duty of investigating fires is imposed on fire chief of local municipality, and he is not entitled to charge expense of investigation against county. Id.

5957. Power to summon and compel, etc.

Act of fire marshal in compelling person suspected of arson to testify under subpoena, held to violate the constitutional right of such person against self incrimination. 180M573, 231NW217.

5960. May enter any building within reasonable hours.

State fire marshal may not use force to effect entry on premises for purpose of making inspection, but owner padlocking premises so that inspection may not be made is guilty of offense of resisting, delaying and obstructing a public officer in discharge of his duties. Op. Atty. Gen. (197c), May 9, 1935.

5961. May order certain buildings repaired or torn down.

City ordinance making it unlawful to alter or repair building damaged or deteriorated more than 50% does not conflict with state statute prescribing powers and duties of state fire marshal. Zalk & Josephs Realty Co. v. S., 191M60, 253NW8. See Dun. Dig. 6525.

Evidence held to sustain finding that building was a fire hazard and dangerous to life and limb. State Fire Marshal v. S., 201M594, 277NW249. See Dun. Dig. 3763c.

Fact that there are delinquent taxes on property is not a bar to condemnation of building by fire marshal. Op. Atty. Gen. (197c), Aug. 1, 1935.

Village may refer buildings which are life and limb hazards to persons on sidewalks to state fire marshal or deal with owners thereof under nuisance statute. Op. Atty. Gen. (477b-20), Mar. 23, 1937.

State fire marshal is not authorized to condemn or direct repair of buildings or structures located upon lands forfeited to state for delinquent taxes. Op. Atty. Gen. (197c), May 3, 1937.

5961-1. State Fire Marshal may repair or demolish certain structures.—The state fire marshal is hereby authorized to petition the district court of any county for an order of condemnation directing the destruction, repair or alteration of any building or structure located on land owned by and/or on land held in trust by the state, which is especially liable to fire and dangerous to life and limb, within the purview of the provisions of Section 5961, Mason's Minnesota Statutes of 1927. In case the petition is for an order requiring repairs the person or persons authorized by law to make such repairs, and upon whom such order is served, shall make such repairs as thereby directed, and the order may direct that the building or structure be closed and not further used or occupied until such repairs are made. Upon the filing of such petition with the district court wherein any such building or structure is located, the court shall make a temporary order directing the state fire marshal to serve a copy of such petition and a copy of the temporary order upon the Minnesota Tax Commission, and the County Board of the County wherein such lands are situated, and if such lands are situated in cities of the first class, then also upon the assessor of such city of the first class, as well as ordering that notice be served upon the parties who have an interest of record in said property within such time as may be fixed by the court in said order. If within twenty days no objections are filed to said petition by the parties so served or by any person or persons claiming an interest in said property, the court may require the state fire marshal to present sufficient proof to sustain the allegations set forth in his petition, and thereupon the court may or may not make, as the case may require, an order of condemnation and direct the state fire marshal to proceed with the destruction of the building or structure; but if objections are filed and a copy of such objections have been duly served upon the state fire marshal within twenty days of the service of the copy of the temporary order and copy of the petition hereinbefore referred to, the court, upon application by the state fire marshal, shall make its order fixing the time and place for hearing of the matter, which place may be at any convenient point, at any general or special term, or out of the term, or in chambers within the judicial district where such lands are situated, and which time shall be within ten days from the date of the filing of the objections, or as soon thereafter as may be. If upon such hearing the petition shall be sustained the court shall issue an order of condemnation and fix the time within which the building or structure shall be destroyed, repaired or altered in compliance with such order, and that upon failure of the proper person or persons to comply with the said order the state fire marshal shall proceed with the destruction thereof. If upon the hearing the petition of the state fire marshal is not sustained the court shall deny the petition.

In all cases where the order of the court has not been complied with and the state fire marshal is authorized to proceed with the demolition of any building or structure, the state fire marshal shall sell and dispose of the salvage materials therefrom at public auction upon three days' posted notice, and all expenses incurred by the state fire marshal shall be paid out of the moneys received from such auction of salvage material and any deficit remaining unpaid thereafter may be paid out of the funds created by and

provided for in Section 5973 of Mason's Minnesota Statutes of 1927. Should any surplus remain of the amount received for salvage material after deducting the expenses incurred by the State Fire Marshal such surplus shall be paid to the county treasurer of the county where the property was situated to be distributed by him as provided by law. (Act Apr. 12, 1939, c. 200.)

5966. Time and place of hearing.

Section is constitutional. State Fire Marshal v. S., 201M594, 277NW249. See Dun. Dig. 1639.

Provision as to prima facie effect of state fire marshal merely creates a rule of evidence, and merely means that burden of going forward with evidence shifts. State Fire Marshal v. S., 201M594, 277NW249. See Dun. Dig. 3763c.

5973. Fire insurance companies to pay cost of maintenance.—For the purpose of maintaining the department of state fire marshal and paying all the expenses incident thereto, every fire insurance company doing business in the State of Minnesota, excepting town insurance companies, farmers' mutual fire insurance companies and township mutual fire insurance companies, shall hereafter pay to the State Treasurer on or before March 1, 1914, and annually thereafter, a tax upon its fire premiums or assessments or both, as follows:

A sum equal to one-half of one per cent of the gross premiums and assessments, less return premiums, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise; provided, however, that this act shall in no way affect the tax due March 1, 1913, and the payment thereof. In the case of a mutual company, the dividends paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be set aside as a special fund and is hereby appropriated for the maintenance of such office of state fire marshal and the expenses incident thereto. The state shall not be liable in any manner for the salary of said fire marshal, his chief assistant, deputies, clerks and other employes or for the maintenance of the office of fire marshal or any expenses incident thereto, and the same shall be payable only from the special fund provided for in this section. (As Am. Mar. 19, 1937, c. 77, §1.)

Township mutual insurance company is not liable for fire marshal tax. Op. Atty. Gen. (249b-13), Mar. 10, 1937.

5970. Records to be public, except in certain cases.

Unsworn statement drawn up by deputy fire marshal and signed by one not under subpoena was not privileged. State v. Poelaert, 273NW641. See Dun. Dig. 10339.

DRY CLEANING AND DRY DYEING BUILDINGS AND ESTABLISHMENTS

5984. Dry cleaning and dyeing establishments license.—For the purpose of this act a dry cleaning or dry dyeing business is defined to be the business of cleaning, or dyeing cloth, clothing, feathers, or any sort of fabrics or textiles or cleaning or dyeing by processes known as dry cleaning and dry dyeing.

No person, firm or corporation shall advertise as conducting a dry cleaning or dry dyeing business or either until such person, firm or corporation shall have made aplication to the state fire marshal for permission to engage in such business and paid the fee as hereinafter provided.

The term "flammable liquid" as used in this act is defined as any liquid which, under operating conditions, gives off vapor which, when mixed with air is combustible and explosive, or any liquid with a flash point 187 degrees Fahrenheit (86 degrees Centigrade) closed cup tester. The flash point shall be determined with the Elliott, Abel, Abel Pensky, or the Tag closed cup testers, but the Tag closed cup tester (standardized by the United States Bureau of Standards) shall be authoritative in case of dispute. All tests shall be made in accordance with the methods adopted by the American Society for Testing Materials. (As Am. Apr. 14, 1937, c. 225, §1.)

Use of liquid for cleaning hats and limited quantities of wearing apparel requires no license unless it is one of the liquids referred to in this section, such being question of fact. Op. Atty. Gen., May 24, 1933.

One may be conducting a dry cleaning or dry dyeing business although not advertised as conducting such a business. Op. Atty. Gen. (197b), Feb. 28, 1935.

5991. Buildings to be fire proof.—All buildings or establishments used or to be used for the purpose of the business of dry cleaning or dry dyeing as above defined shall be of fire-resisting design and construction and not to exceed three stories in height and shall be without basement, cellar or open space below the ground floor, the workroom where all dry cleaning is done to be located on the ground floor. Such building must also comply in all other respects with the provisions of this act. Fire-resisting construction is defined to consist of the use of fire-resisting material as follows: Brick, hollow tile, steel and concrete or reinforced concrete. Any building in which gasoline, naphtha, benzol, carbon bisulphide or light petroleum or coal tar products are used in connection with a dry cleaning or dry dyeing business must be at least fifteen (15) feet from any other building or lot, except the building used for operating a dry cleaning or dry dyeing business, unless separated therefrom by an unpierced fire wall. In no event shall more than two sides of such building have walls without openings. The roof of such buildings shall be of fire-resistive construction. (As Am. Apr. 14, 1937, c. 225, §2.)

5992. Construction.—All walls of such dry cleaning and dry dyeing buildings or establishments shall be of brick laid in cement mortar, or of reinforced concrete not less than twelve inches in thickness, or of stone, laid in cement mortar not less than sixteen inches in thickness, or of other noncombustible and fire-resisting material constructed of a thickness of not less than twelve inches. The roof of such building shall be of fire-resistive construction. Provided, however, that the construction specified in this section shall not apply to any building or establishment in which no flammable liquid, product or substance shall be present, handled or used. (As Am. Apr. 14, 1937, c. 225, §3.)

5994. Same.—Ventilating apertures of size not less than sixty square inches in area shall be placed in the walls of such dry cleaning and dry dyeing buildings at or near the level of the floor, and spaced not over six feet apart from center to center; such openings shall be covered with 2x2 wire mesh, number sixteen galvanized wire web or its equal, and shall be kept clear of all obstructions and such ventilating apertures shall be so arranged as to completely change the air volume every three minutes while the plant is in operation. Other ventilating systems may be substituted for the above, which will completely change the air every three minutes, while the plant is in operation provided same are approved before constructed by the state fire marshal. (As Am. Apr. 14, 1937, c. 225, §4.)

5996. Same.—As a means of fire extinguishment in any such buildings, the same shall be equipped with a high pressure boiler of sufficient size and horse power, such boiler to be located in a fire-proof building at least ten (10) feet from any building used for the purpose of dry cleaning or dry dyeing, such boiler to be connected with a two-inch steam supply pipe in the dry cleaning or dry dyeing room so installed as to give as nearly as possible an equal distribution of steam, and to be so placed that the steam when turned in will immediately fill the entire room; such steam pipes shall be provided with perforations or jets of one-quarter of one inch in diameter, equally spaced, so that there is one opening to each twenty-five square

feet of floor space; a standard globe valve shall be placed in the steam service line or lines connected to this perforated steam pipe outside of the building, and to be accessible for operation in case of fire. The steam supply for such pipes shall be continually available for service while the plant is in operation, and shall be sufficient to completely fill the room space in less than one minute, and continue the flow of steam sufficient to keep the room space filled with steam for a period of at least thirty minutes.

This section shall not apply to any business or establishment where the dry cleaning or dry dyeing is accomplished by a non-flammable liquid, or liquids having a flash point exceeding 187 degrees Fahrenheit or 86 degrees Centigrade, product or substance. (As Am. Apr. 14, 1937, c. 225, §5.)

6001. Use of gasoline engines forbidden in certain cases.—No gas or gasoline engine, steam generator or heating device nor any electrical dynamo or motor except such motors as have been approved as explosion-proof by the State Fire Marshal shall be located, maintained or used inside of, nor within a distance of ten feet of any building used for the business of dry cleaning and dry dyeing as above defined except that an electrical motor may be placed within such ten feet, but without a solid fireproof wall.

Any dry cleaning or dry dyeing business located in any village or city of the fourth class may install and maintain two 2½-gallon fire extinguishers of anti-freezing liquid, to be approved by and installed as directed by the state fire marshal, in lieu of compliance with the provisions of Section 13 of this chapter providing for the extinguishment of fire in such business or establishment. ('21, c. 459, §18; Laws 1927, c. 402; Apr. 20, 1931, c. 268.)

6001-1. Must have fire extinguishers.—Any dry cleaning or dry dyeing business located in any village or city of the fourth class may install and maintain two 2½ gallon fire extinguishers of anti-freezing liquid to be approved by and installed as directed by the State Fire Marshal, in lieu of compliance with the provisions of this chapter providing for the prevention of fire in such business or establishment. (Act Apr. 26, 1929, c. 402, §2.)

6012. Separate buildings for gas, etc.—No carbon bi-sulphide, gasoline, naphtha, benzol or light petroleum or coal tar product used in the dry cleaning and dry dyeing business shall be distilled or redistilled in connection with the said dry cleaning or dry dyeing business except in a building of fire-proof construction, which building must be located more than fifteen (15) feet from any other building or lot, except the buildings used in said dry cleaning and dry dyeing business, unless separated therefrom by an unpierced fire wall. But in no event shall more than two sides of such building have walls without openings. The roof of such building shall be of fire-resistive construction. (As Am. Apr. 14, 1937, c. 225, §6.)

6014. Abandoned buildings.—Should any building, business or establishment of dry cleaning or dry dyeing as herein defined, be discontinued or not carried on in any building which does not conform to the provisions herein set forth, for a period of ninety (90) days, such business shall be considered as having been abandoned, and before the same can again be carried on in such building, the said building must be so constructed, repaired or rebuilt as to conform to the provisions of this act.

The period of ninety (90) days herein stated is not to be construed as such period when the plant is under construction or repair or operated in its regular capacity as a going business. Operation of the plant for short periods of time within the said period of ninety (90) days with the intent to evade the provisions of this section shall be considered as an attempt to interfere with the operation of this act. (As Am. Apr. 14, 1937, c. 225, §7.)

6017. Fire marshal to enforce act.—It shall be the duty of the state fire marshal, his deputies and assistants, to enforce the provisions of this act, and he shall have the same power and authority in the enforcement of the provisions hereof as are given to the state fire marshal under the provisions of the state fire marshal law, namely, sections 5129-5166 of the General Statutes of Minnesota, 1913.

They shall administer and enforce the laws relating to the construction, regulation, safety, and operation of dry cleaning and dry dyeing establishments; investigate, ascertain, declare and prescribe what reasonable standards for the adoption of improvements or other means or methods including the prescribing, modifying and enforcement of reasonable orders pertaining thereto, necessary to prevent fires and explosions and for the protection and safety of employees and the public in dry cleaning and dry dyeing establishments, not inconsistent with this act, and in particular, provisions of Mason's Minnesota Statutes for 1927, Section 6013, but such requirements and regulations shall also be required of alterations and changes undertaken by existing dry cleaning and dry dyeing establishments. (As Am. Apr. 14, 1937, c. 225, §8.)

6018. Disposition of fines.—All fees, penalties or forfeitures collected by the state fire marshal, his deputies or assistants under the provisions of this act, shall be paid into the state treasury and be credited to the State Fire Marshal Fund, and shall be disbursed in the same manner as other moneys in said fund are disbursed. (As Am. Apr. 14, 1937, c. 225, §9.)

Fees for licenses issued previous to passage of Laws 1937, c. 225, should be certified to general revenue fund. Op. Atty. Gen. (290e), July 22, 1937.

CHAPTERS 37-38

Agriculture and Rural Credits

DEPARTMENT OF AGRICULTURE

6023. Creation.

Seed loans for 1937 crop. '37, c. 65.
Cook v. T., 274NW165; note under §6025.

6024. Powers and duties.

(b)

Town assessor is entitled to $4.00 for each day's services including time spent in taking farm census. Op. Atty. Gen., July 5, 1933.

Assessor is entitled to compensation for extra time spent in taking farm census, but such services must be performed during the months of May and June. Op. Atty. Gen. (12c-1), July 10, 1934.

6025. Commissioner of Agriculture to enforce acts.

Commissioner of Agriculture, Dairy and Food in discharging the duties incumbent upon him under §10390 may exercise the powers conferred by this section. Op. Atty. Gen., Oct. 15, 1931.

Duty imposed on 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, nonperformance of which may result in liability to one proximately damaged by nonfeasance. Cook v. T., 274NW165. See Dun. Dig. 8001.

6026. Attorney general to advise Commissioner.

Op. Atty. Gen., Oct. 15, 1931; note under §6025.

6027. Commissioner to publish information.

Op. Atty. Gen., Oct. 15, 1931; note under §6025.

Department may not charge for pamphlets issued. Op. Atty. Gen. (322), Sept. 15, 1938.