

MASON'S MINNESOTA STATUTES

1927

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THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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CHAPTER 31

INSPECTION OF STEAM VESSELS AND BOILERS

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5474. District boiler inspector—Appointment, etc.—Inspections — Examinations — Fees — The Industrial Commission of Minnesota shall appoint a resident of each senatorial district as a district boiler inspector for such district, except in counties where there is more than one senatorial district, in which case there shall be appointed one district boiler inspector for such county, for a term of two years commencing July 1, 1927.

The district boiler inspector shall inspect all steam boilers and pressure vessels in use in his district not expressly excepted from such inspection by law, and shall issue and sign a license for such boiler, or a certificate condemning such boiler and sealing the same, upon forms to be prepared and furnished by the Industrial Commission of Minnesota. Each district boiler inspector shall examine all applicants residing in his district for second-class and special engineer's licenses, and shall certify the result of such examination to the said chief of the division of boiler inspection, whereupon such chief of the division of boiler inspection shall issue such license as the certification of the district boiler inspector shall show the applicant to be entitled to receive.

The chief of the division of boiler inspection, or his deputy, shall hold examinations at such time and place as he may fix and determine for the purpose of examining applicants for chief and first-class engineer's license, and shall give notice to all applicants of the time and place for such examination, and shall grant and sign such license certificates as such applicants may be entitled to receive upon such examination. All engineer's licenses shall be for a period of one year, with privilege of renewal upon application for such renewal and payment of the fee provided by law, not later than ten days after the expiration of such license.

The district boiler inspectors shall receive as full compensation for their services all fees collected by them for the inspection of boilers, pressure vessels, and hulls, and fifty per cent (50%) of all fees col-

lected by them for examination of applicants for engineer's license, and also fifty per cent (50%) of the annual renewal fees received from such engineers. Fifty per cent (50%) of such renewal fees shall be remitted to said chief of the division of boiler inspection.

The district boiler inspector shall make monthly reports to said chief of the division of boiler inspection in such form as shall be prescribed by the Industrial Commission of Minnesota.

All fees collected by the chief of the division of boiler inspection under this act shall be paid into the State Treasury in the manner provided by law for fees received by other state departments, to be credited to the Revenue Fund, except that fifty per cent (50%) of such license fees collected by said chief of the division of boiler inspection for chief and first-class engineer's licenses shall be paid to the district boiler inspector of the district in which the applicant resides.

Every district boiler inspector who shall collect fees in excess of Three Hundred Seventy-five Dollars (\$375.00) in any calendar month, after deducting such necessary expenses as may be allowed by the Industrial Commission of Minnesota, subject to the approval of the Commission of Administration and Finance, shall pay the excess of such sum of Three Hundred Seventy-five Dollars (\$375.00) and expenses into the State Treasury, to be credited to the Revenue Fund. Provided, that any such district boiler inspector whose fees amount to less than Three Hundred Seventy-five Dollars (\$375.00) in any one month, after deducting such expenses, shall have the right to retain a sufficient amount of fees collected in any succeeding calendar month in excess of the amount herein provided to be retained by him in such calendar month, to reimburse such district boiler inspector for any deficit due such inspector in such prior month. Provided, further, that any arrangement heretofore made between any district boiler inspector and the Governor of this state, by which it has been agreed that any part of the funds collected by such district boiler inspector should be and the same have been turned over or deposited to the credit of the State of Minnesota, is hereby approved, and any such sum or sums so agreed to be or having been turned over to the State of Minnesota is hereby accepted to be credited to the Revenue Fund. (R. L. '05, § 2168, G. S. '13, § 4737; amended '19, c. 240, § 1; '27, c. 378)

Explanatory note—Office of chief boiler inspector abolished. See § 53-38, herein.

Inspection of low-pressure boiler in private house under personal management (145-372, 177+497).

5475. Who eligible—Every boiler inspector shall be a man of good moral character, and qualified by experience in the construction of steam boilers, and shall have had at least ten years' actual experience in operating steam engines and boilers. He shall not be directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or in any patented article required or generally used in the construction of engines or boilers. (2169) [4738]

77-355, 79+1038.

5476. Deputy inspectors—Each boiler inspector may

appoint one or more deputies, who shall possess the same qualifications and have the same authority as are prescribed for inspectors in § 5475. Each such deputy, before entering upon the duties of his office, shall take and subscribe the oath required by law, and file the same with the secretary of state. (2170) [4739]

5477. Meetings—Rules—Violations—In February of each year said inspectors shall meet as a board, at the capitol in St. Paul, and establish regulations for the inspection of vessels and boilers, and for the performance of their other duties. They shall prescribe regulations for the inspection of the hulls, machinery, boilers, steam connections, fire apparatus, live-saving appliances, and equipments of all vessels propelled in whole or in part by steam and navigating the inland waters of the state, which shall conform as near as may be to the requirements of the United States in similar cases, and when approved by the governor such regulations shall have the force of law. They shall designate the number of passengers that each steam vessel may safely carry, and no such vessel shall carry a greater number than is allowed by the inspector's certificate. Any owner, master or other person violating any regulation prescribed by said board shall be guilty of a misdemeanor. (2171) [4740]

5478. Neglect to secure inspection—Every owner, lessee or other person having charge of steam boilers, or any boat propelled in whole or in part by steam, not subject to inspection under the laws of the United States, shall cause the same to be inspected at least once each year by the boiler inspector; and every such owner, lessee or person in charge who shall raise steam or operate such boilers and machinery without such inspection shall be guilty of a misdemeanor. (2172) [4741]

5479. Inspection by request—Certificate—Posting—On the written application of its owner, lessee or manager, the inspector shall inspect the hull, boiler, machinery and equipments of each vessel and boiler subject to inspection under this chapter, once at least in each year, and shall satisfy himself that every such vessel is of a structure suitable for the service in which it is to be employed, has suitable accommodations for passengers and crew, and is in proper condition to be used in navigation with safety to life, and that life-preservers, floats, pumps, hose, anchors and other things necessary to insure safety have been provided. When the inspection has been completed and the inspector approves the vessel and its equipments throughout, he shall make, subscribe and file with the secretary of state a verified certificate of the facts found, and deliver a copy thereof to the owner or master, who shall post it in a conspicuous place on such vessel. He may collect a fee of ten dollars for inspection of each vessel of fifty tons burden or over, and five dollars for each of a less tonnage. (2173) [4742]

5480. Examinations of master and pilots, establishing of regulations, licensing and revocations—The chief boiler inspector or his deputy shall examine all masters and pilots of steamboats and vessels and all gasoline boats and vessels carrying passengers for hire on the inland waters of the state as to their qualifications and fitness, and if such persons be found trustworthy and competent to perform their duties as master or pilot, as the case may be, he shall issue a certificate authorizing the applicant to act as such master or pilot on the inland waters of the state designated in the certificate. The chief boiler inspector shall also make such regulations for the navigation of any such boat or vessel as will require the operation of the same without danger to life or property. He

shall revoke the license of any master, pilot or engineer found under the influence of intoxicating liquor when on duty or who otherwise disregards any prescribed regulation.

The chief boiler inspector or his deputy shall collect a fee of five dollars (\$5.00) for the examination of any applicant for a master or pilot's license and one dollar (\$1.00) for the annual renewal of any such license. In case the applicant for license as master or pilot successfully passes an examination, a license shall be issued to him without any other fee. Every owner, lessee, master or pilot violating any provision of this section or section 2173, shall be guilty of a misdemeanor. (R. L. '05 § 2174; G. S. '13 § 4743, amended '19 c. 240 § 2)

Constitutionality (145-372, 177+497).

5481. Inspection—Such inspectors shall inspect all steam boilers and steam generators before the same shall be used, and all such boilers at least once each year thereafter. They shall subject all boilers to hydrostatic pressure or hammer test, and ascertain by a thorough internal and external examination that they are well made and of good and suitable material; that the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstructions; that the flues are circular in form; that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby; and that such boilers and their steam connections may be safely used without danger to life or property. They shall also ascertain that the safety valves are of suitable dimensions, sufficient in number, and properly arranged, and that the safety valve weights are so adjusted as to allow no greater pressure in the boilers than the amount prescribed by the inspector's certificate; that there is a sufficient number of gauge cocks, properly inserted, to indicate the amount of water, and suitable gauges that will correctly record the pressure of steam; and that the fusible metals are properly inserted so as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limit; and that provisions are made for an ample supply of water to feed the boilers at all times, so that in high-pressure boilers the water shall not be less than three inches above the top of the fire surface; and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts when under pressure of steam. (2175) [4744]

5482. Tests—In subjecting high-pressure boilers to the hydrostatic test, the inspector shall assume one hundred and twenty-five pounds to the square inch as the maximum working pressure allowable for new boilers forty-two inches in diameter, double riveted, and made in the best manner, of plates one-fourth of an inch thick and of good material; but he shall rate the working power of all high-pressure boilers according to their strength compared with this standard, and in all cases the test applied shall exceed the working power allowed in the ratio of one hundred and sixty-five to one hundred and ten. In subjecting low-pressure boilers to hydrostatic tests, he shall allow as a working power for each new boiler a pressure of only three-fourths the number of pounds to which it has been so subjected. If any inspector is of opinion that any boiler will not safely allow so high a working pressure, he may, for reason specially stated in his certificate, fix the pressure at less than the test pressure. No boiler or steam pipe, nor any of the connections therewith, which are made wholly or partly of bad material, or of cast iron, or which are unsafe from

any cause, shall be approved. But this shall not be construed to prevent the use of any boiler or steam generator not constructed of riveted iron or steel plates, when the inspector is satisfied by evidence that such boiler or generator is equal in strength to, and as safe from explosion as boilers of the best quality, constructed of riveted steel or iron plates. (2176) [4745]

5483. Imperfect construction—Every person who shall construct a boiler or steam pipe of iron or steel plates known to be faulty or imperfect, or shall drift any rivet hole to make it come fair, or who shall deliver any such boiler for use, knowing it to be imperfect in its flues, flanging, riveting, bracing, or in any other of its parts, shall be guilty of a gross misdemeanor, and punished by a fine of two hundred dollars, one-half of which shall be paid to the informer. (2177) [4746]

5484. Special examination—In addition to the annual inspection, the inspectors at any time, when in their opinion such examination shall be necessary, shall examine all boilers which have become unsafe, and notify the owners or operators of any defect, and what repairs are necessary; and such a boiler shall not thereafter be used until so repaired. Every person operating any such boiler who fails to comply with the inspector's requirements shall be guilty of a misdemeanor, and also liable for damages to persons or property resulting therefrom. (2178) [4747]

5485. Fusible plug—Every steam boiler shall be provided with a fusible plug, of good banca tin, inserted in the flues, crown sheet or other parts of the boiler most exposed to the heat of the furnace when the water falls below the prescribed limits. (2179) [4748]

Whether absence of fusible plug was negligence (150-520, 186+123.

5486. License to be renewed annually and grade authorized—Every owner or manager of a steam boiler shall allow inspectors full access to the same, and every engineer operating the same shall assist the inspector in his examination, and point out any known defects in the boilers or machinery in his charge. No person shall be entrusted with the operation of any steam boiler or steam machinery who has not received a license of such grade as to cover said steam boilers or steam machinery, which license shall be renewed annually. Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and punished by a fine of not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars. (R. L. '05 § 2180; G. S. '13 § 4749, amended '19 c. 240 § 3)

5487. Examinations for classifications and qualifications—Engineers shall be divided into four (4) classes: (1) Chief engineers; (2) first-class engineers; (3) second-class engineers; (4) special engineers.

To entitle them to licenses they shall make written application on blanks furnished by the inspector and shall successfully pass an examination for such grade of license as applied for.

1. A chief engineer shall be at least twenty-one (21) years of age, be of such habits and have had such experience as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery, and before receiving a license he shall take and subscribe an oath that he has had at least five years' actual experience in operating such boilers and machinery.

2. A first-class engineer shall be at least twenty-one (21) years of age, be of such habits and have had

such experience as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery of not more than three hundred (300) horsepower. Before receiving a license he shall take and subscribe an oath that he has had at least three years' actual experience in operating such boilers and machinery.

3. A second-class engineer shall be at least twenty-one (21) years of age, be of such habits and have had such experience as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery of not more than one hundred (100) horsepower. Before receiving a license he shall take and subscribe an oath that he has had at least one year of actual experience in operating such boilers and machinery.

4. A special engineer, upon examination, shall be sufficiently acquainted with the duties of an engineer as to justify the belief that he can be safely intrusted with steam boilers and steam machinery of not more than thirty (30) horsepower. (R. L. '05 § 2181; G. S. '13 § 4750, amended '19 c. 113 § 1; '19 c. 240 § 4)

The provisions with reference to classification, qualification, and licensing are not self-contradictory and unconstitutional (103-331, 115+167).

5488. License — Revoked, when—Whenever complaint shall be made by any person against an engineer holding a license that, through negligence, want of skill, inattention to duty, or violation of any provision of this chapter, he has permitted his boiler to burn or otherwise become in bad condition, the inspector who granted his license, upon satisfactory proof of such negligence, shall revoke the same. Any engineer aggrieved by such revocation may appeal to the board of inspectors, whose decision in the case shall be final. (2182) [4751]

5489. False certificate—In making the inspection of boilers, machinery or steam vessels, the inspectors may act jointly or separately, but shall in all cases verify the certificate of inspection. Every inspector who shall wilfully certify falsely regarding any steam boiler or its attachments, or the hull and equipments of any steam vessel, or who shall grant a license to any person to act as engineer, master, or pilot contrary to the provisions of this chapter, shall be guilty of a felony, and be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the state prison for not more than one year, or by both. In addition to such punishment, he shall forthwith be removed from office. (2183) [4752]

5490. District boiler inspector to deliver certificates — Fees for inspection—After examination and tests, if the district boiler inspector shall find any steam boiler or pressure vessel safe and suitable for use, he shall deliver to the chief boiler inspector a verified certificate in such form as the chief boiler inspector shall prescribe, containing a specification of the tests applied and the working pressure allowed, a copy of which the district boiler inspector shall furnish to the owner of the boiler or pressure vessel, who shall post and keep the same in a conspicuous place on or near such boiler or pressure vessel. The district boiler inspector shall be entitled to a fee of three (\$3.00) dollars for the inspection of each boiler or pressure vessel and its connections, payable on delivery of the certificate. The fee for the examination for an engineer's license shall be: Chief engineer, \$7.00; first-class, \$5.00; second-class, \$3.00, and special, \$2.00, and for each yearly renewal, \$1.00. Fifty per cent (50%) of all license fees shall go to create a fund to be known

as the boiler inspectors' fund and fifty per cent (50%) to the inspector of the district where the examination is held or renewal made. Which fee shall accompany the application. (R. L. '05 § 2184; G. S. '13 § 4753, amended '19 c. 240 § 5)

5491. Additional help for chief boiler inspector and limitation of expenditures—The chief boiler inspector may, with the consent of the governor, appoint such additional help as shall require to carry out the work of his office. But at no time shall the salaries and expenses authorized by this act exceed the amount appropriated for carrying out the provisions thereof; provided, that in no event shall the disbursements of this act exceed the fees collected. (R. L. '05 § 2185; G. S. '13 § 4754, amended '19 c. 240 § 6)

5492. Residence boilers and railroad locomotives excepted—The provisions of this act shall not apply to heating plants in buildings occupied solely for residence purposes with accommodations herein not to exceed four families, nor to railroad locomotives, nor to railroad locomotive engineers employed by railroad companies. (R. L. '05 § 2186; G. S. '13 § 4755, amended '19 c. 240 § 7)

5493. Insurance companies to report to chief inspector—(a) Every insurance company insuring boilers and pressure vessels in this state shall within fifteen days after inspecting any such boiler or pressure vessel make, in duplicate, a report in writing, showing the date of such inspection, the name of the person making the inspection, the condition of such boiler or pressure vessel as disclosed by such inspection, whether the same is operated by a licensed engineer and whether a policy of insurance has been issued by said company with reference to said boiler or pressure vessel. Such insurance company shall within said period of fifteen days mail one of such reports to the chief boiler inspector and shall deliver one of such reports to the person, firm or corporation owning or operating such boiler or pressure vessel.

Every boiler or pressure vessel as to which any insurance company authorized to do business in this state has issued a policy of insurance, after the inspection thereof, shall be exempt from other inspection under the provisions of this act, while the same continues to be insured; provided, the person, firm or corporation owning or operating the same shall have an unexpired certificate of exemption from inspection, which certificate shall be issued by the chief boiler in-

spector upon application by the holder of a report of inspection made by the insurance company as hereinbefore set forth and showing that a policy of insurance has been issued by such insurance company with reference to such boiler or pressure vessel and the payment to the chief boiler inspector of a fee of fifty cents therefor. Such certificate of exemption shall expire one year from the date of the report of inspection of the boiler or pressure vessel to which it relates. Such certificate shall be posted in a conspicuous place near the boiler or pressure vessel described therein and to which it relates. Every insurance company shall notify the chief boiler inspector, in writing of the cancellation or expiration of every policy of insurance issued by it with reference to policies in this state, and the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation has or will become effective.

Any insurance company which shall fail to comply with the requirements of this section shall be deemed guilty of a misdemeanor and fined not more than fifty dollars. ('19 c. 240 § 8)

5494. Applications—To whom made—Sealing authorized in case of failure to make payment—The chief boiler inspector shall prepare blank applications on which applications for engineers' licenses shall be made under oath of the applicant. Such blanks shall be so formulated as to elicit such information as is desirable to pass on the qualifications of the applicant.

Every applicant for an engineer's license shall make his application to the district boiler inspector of the district wherein the applicant resides and no license shall be granted by the district boiler inspector of any other district of this state if such applicant's license has been refused.

If the owner or lessee of any boiler or pressure vessel, which boiler or pressure vessel has been duly inspected, refuses to pay the required fee as provided by law within thirty (30) days from the date of such inspection, the district boiler inspector or the chief boiler inspector or his deputy, as the case may be, is hereby authorized and empowered to seal said boiler or pressure vessel until said fee is paid, and the owner, lessee or agent who breaks said seal or operates said boiler or pressure vessel before the fee has been paid shall be guilty of a misdemeanor. ('19 c. 240 § 9)

CHAPTER 31A

INSPECTION AND REGULATION OF AIRCRAFT.

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5494-1. Inspection by adjutant general—Certificates of inspection—Attaching to aircraft while operated—No person shall operate any aircraft of any description, other than aircraft owned and operated by the state or the United States, within or over the State of Minnesota, unless such aircraft has first been in-

spected by the adjutant general as to its safe condition and airworthiness within six months prior to such operation, and certified by him to be safe and airworthy. Such certificate shall be in the form of an official seal or device furnished by the adjutant general to be attached to the aircraft at all times while operated. The maximum passenger carrying capacity of all such aircraft used or which can be used for carrying passengers will be determined by the adjutant general upon such inspection and stated upon such seal or device. No such aircraft shall be operated unless such certificate is attached thereto, nor while carrying a greater number of passengers than the maximum permitted by such certificate. ('25, c. 406, § 1)

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1626¹

5494
Et seq. — 300
4637

5494
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5494
Et seq. — 314
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5494-2. Pilots licenses—Of whom required—Revocation—Carrying and exhibition—No person other than members of the military or naval forces of the state or of the United States or employes of the post office department acting in line of duty as such, shall operate any aircraft of any description within or over the State of Minnesota, unless he holds a pilot's license therefor issued by the adjutant general, upon application and after such examination and tests as may be prescribed by him. Such license shall be subject to revocation by the adjutant general at any time for reckless or wild flying or handling aircraft in such manner as to endanger life or property, by the licensee. Such license shall be carried by the licensee at all times when operating aircraft, and shall be exhibited to any person upon request therefor made. ('25, c. 406, § 2)

5494-3. Exhibitions prohibited—Stunting exhibitions with aircraft directly over crowds or assemblages of people, or over any city or village and operating aircraft over any city or village at so low a height that

it may be impractical without power at any time to glide to a safe landing, are hereby prohibited and declared to be unlawful. ('25, c. 406, § 3)

5494-4. Fees for certificates and licenses—The fee for the certificate provided in Section 1 hereof shall be \$10.00, provided that every renewal certificate shall be issued for \$2.00. The fee for the pilot's license provided in Section 2 hereof shall be \$10.00. The fees received by the Adjutant General under this act shall be retained and disbursed by his department for the purpose of administering the provisions hereof. ('25, c. 406, § 4)

5494-5. Enforcement of law by adjutant general—The adjutant general is hereby charged with the enforcement of the provisions of this act. ('25, c. 406, § 5)

5494-6. Penalty for violations of law—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor. ('25, c. 406, § 6)

CHAPTER 32

PRESERVATION OF GAME [AND FISH].

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To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

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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able length of time; and any operator or owner of such honey house or building, failing to obey such notice and warning, shall be guilty of a misdemeanor and shall be punished as provided in this Act. (As amended Apr. 22, 1939, c. 404, §15.)

5473-16. May not spray fruit trees with poisonous material.—It shall be unlawful to spray or dust fruit trees which are in full bloom with any poisonous material which is injurious to bees in their eggs, larval or adult stages. (As amended Apr. 22, 1939, c. 404, §16.)

5473-17. Violations—Penalties.—Any person violating any of the provisions of this Act shall be punished by a fine of not more than \$500.00, or by imprisonment in the county jail not exceeding one year, or both such fine and imprisonment in the discretion of the court.

In addition to the penalties herein provided, bees on combs, used hives or other used apiary appliances

brought into this state in violation of the provisions of this Act shall be confiscated and destroyed. (As amended Apr. 22, 1939, c. 404, §17.)

5473-18. Provisions severable.—If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged or decreed invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered. (As amended Apr. 22, 1939, c. 404, §18.)

5473-19. Laws repealed.—That Mason's Minnesota Statutes of 1927, Sections 5461, 5462, 5463, 5464, 5465, 5466, 5467, 5468, 5469, 5470, 5471, 5472 and 5473 are hereby repealed. (As amended Apr. 22, 1939, c. 404, §19.)

CHAPTER 31

Inspection of Steam Vessels and Boilers

5474. District boiler inspector—Appointment, etc.

District boiler inspector from 1905 to 1919 was a state employee. Op. Atty. Gen., Oct. 16, 1933.

State boiler inspector has authority to inspect air pressure vessels on trolley cars in connection with their brakes. Op. Atty. Gen. (34g-12), July 13, 1934.

Boats propelled by gasoline or steam on Lake Mille Lacs and charged an inspection fee therefor are also required to procure a license from commission set up under Laws 1937, Ex. Sess., c. 80, if they are within the provisions of §4 thereof. Op. Atty. Gen. (34g-2), Feb. 9, 1938.

Municipality has no authority by ordinance to prohibit or prevent an engineer licensed under state law from repairing, altering or servicing steam, water or gas pipes of a steam plant confined within buildings or premises where engineer is employed. Op. Atty. Gen., (34f), June 14, 1938.

Boilers located in armories are subject to inspection. Op. Atty. Gen. (34g-14), March 4, 1939.

Provision specifying a two-year term for district boiler inspectors was impliedly repealed by the Civil Service Act. Op. Atty. Gen. (644), May 23, 1939.

District boiler inspectors are within the classified civil service. Id.

5475. Who eligible.

A janitor of a school may also be employed as a state boiler inspector. Op. Atty. Gen., Aug. 18, 1931.

5476. Deputy inspectors.

Op. Atty. Gen., Aug. 18, 1931; note under §5475.

5480. Examinations of master and pilots, etc.

Operator of gasoline launch on inland water must obtain permit from State boiler inspector and conservation commission in certain cases. Op. Atty. Gen., Mar. 21, 1934.

A village has no authority to regulate the operation of boating, bathing, etc., in a public lake. Op. Atty. Gen. (273d-1), Aug. 25, 1934.

A rowboat and outboard motor rented to a resort patron is subject to inspection if a fishing guide is furnished to run the outfit. Op. Atty. Gen. (34g-2), Sept. 3, 1937.

5481. Inspection.

Minnesota general hospital should not discriminate against indigent patients. Op. Atty. Gen. (1001c), June 23, 1937.

5486. Allowance of and aiding inspection—License—Offense—Prosecution.—Every owner or manager of a steam boiler shall allow inspectors full access to the same, and every engineer operating the same shall assist the inspector in his examination, and point out any known defects in the boilers or machinery in his charge. No person shall be entrusted with the operation of any steam boiler or steam machinery who has not received a license of such grade as to cover said steam boilers or steam machinery, which license shall be renewed annually. Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. It shall be the duty of the inspector in the county where any

such offense was committed to file a complaint in court for the prosecution of the offender. (As amended Apr. 22, 1939, c. 399.)

Op. Atty. Gen., Jan. 14, 1935; note under §5487(1). Operator of steam boiler in state testing mill must have license. Op. Atty. Gen. (34f), Nov. 18, 1936.

5487. Examinations for classifications and qualifications.

Engineer's license must cover total horse power of any boiler or boilers connected to the header of each boiler plant. Op. Atty. Gen. (34h), Oct. 31, 1938.

"Horse power" is intended to mean manufacturer's rating. Id.

There are no restrictions as to amount of horse power chief engineer may operate. Id.

Minimum grade license of shift engineer may not be less than one grade below license of engineer in charge. Op. Atty. Gen. (34f), May 16, 1939.

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

(1). It is not necessary in a boiler plant of more than 300 horsepower which requires a chief engineer in charge, in case of changing shifts, that all engineers on various shifts should have a license as chief engineer, it being the intent of the statute that one person be in charge and responsible at all times and that his work might be done for him by a first class engineer in his absence between shifts. Op. Atty. Gen. (34h), Jan. 14, 1935.

5490. District boiler inspector to deliver certificates—fees for inspection.—After examination and tests, if the district boiler inspector shall find any steam boiler or pressure vessel safe and suitable for use, he shall deliver to the chief boiler inspector a verified certificate in such form as the chief boiler inspector shall prescribe, containing a specification of the tests applied and the working pressure allowed, a copy of which the district boiler inspector shall furnish to the owner of the boiler or pressure vessel, who shall post and keep the same in a conspicuous place on or near such boiler or pressure vessel. The district boiler inspector shall be entitled to a fee of \$3.00 for the inspection of each boiler or pressure vessel and its connections, payable on delivery of the certificate; provided that the fee for inspection of tanks or receptacles containing air under pressure used to inflate rubber tires used on vehicles shall be \$1.00. The fee for the examination for an engineer's license shall be: Chief engineer, \$7.00; first-class, \$5.00; second-class, \$3.00, and special, \$2.00; and for each yearly renewal, \$1.00. 50 per cent of all license fees shall go to create a fund to be known as the boiler inspectors' fund and 50 per cent to the inspector of the district where the examination is held or renewal made. Which fee shall accompany the application. (R. L.

'05, §2184; G. S. '13, §4753; '19, c. 240, §5; Apr. 15, 1933, c. 257.)

Op. Atty. Gen. (34g-12), July 13, 1934; note under §5474.

Laws 1933, c. 257, amending this section, applies to inspection of air pressure vessels. Op. Atty. Gen., May 2, 1933.

If air tanks are used to inflate tires and also used for other purposes by other connections, boiler inspector is entitled to three-dollar fee. Op. Atty. Gen., Aug. 1, 1933.

Inspection fee is \$3 and not \$1 for inspection of receptacle containing air used to inflate rubber tires on vehicles "and also used for other purposes." Op. Atty. Gen., Jan. 17, 1934.

5492. Residence boilers and railroad locomotives excepted.

Operator of steam boiler in state testing mill must have license. Op. Atty. Gen. (34f), Nov. 18, 1933.

DECISIONS RELATING TO VESSELS IN GENERAL

The court's charge that the defendant was not responsible for the arrival of the corn at Buffalo in a damaged condition, unless its negligence caused the damage, was sufficient to relieve defendant of responsibility for damage due to the propensity of the corn to sweat and heat, if the sweating and heating occurred without negligence on its part. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(14), 9002.

Unseaworthiness is not confined to faults, or omissions in the construction of the vessel, but may arise out of a fault in the conduct of defendant in relation to the

vessel and its equipment, including proper manipulation of hatches to afford ventilation. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 9002.

The damage to plaintiff's property occurred prior to the commencement of the voyage, and the Harter Act (Mason's USCA, Tit. 46, §§190-195), did not apply or relieve defendant of liability. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 9002.

It was defendant's duty as bailee to exercise reasonable care to ascertain the characteristics of the cargo it proposed to store and transport. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(10).

In every contract of affreightment by water, unless otherwise expressed, there is an implied warranty of the seaworthiness of the ship, not only of reasonable fitness to meet the ordinary perils of the sea, but seaworthiness as respects the particular cargo to be transported, including stowage as respects seaworthiness in regard to the cargo. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 9002.

The burden of proof was upon the bailee to show itself free from negligence causing damage to a cargo of corn which it stored for the winter in its ship at Milwaukee and transported to Buffalo upon the opening of navigation. *Rustad v. Great Northern Ry. Co.*, 122M453-456, 142NW727, followed and applied. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(14), 9002.

Evidence held to sustain finding that negligence of steamship company in ventilation and stowage of corn and its failure to remove snow from deck caused damage to cargo. *Cargill Grain Co. v. C.*, 182M516, 235NW268. See Dun. Dig. 732(14), 9002.

CHAPTER 31A

Inspection and Regulation of Aircraft

UNIFORM STATE LAW FOR AERONAUTICS

5494-7. Definitions.—In this act "Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed by the rules regarding water navigation; while being operated through the air otherwise than immediately above water, it shall be treated as an aircraft.

"Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Passenger" includes any person riding in an aircraft but having no part in its operation. (Act Apr. 17, 1929, c. 219, §1.)

5494-8. Sovereignty of air in state.—Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state. (Act Apr. 17, 1929, c. 219, §2.)

Flight by aircraft as constituting trespass or nuisance. 15MinnLawRev318.

Flight by aircraft as constituting trespass or nuisance, and property rights in air column. 21MinnLawRev572. Trespassers in the sky. 21MinnLawRev773.

5494-9. Air rights of surface owner.—The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in Section 4 [§5494-10]. (Act Apr. 17, 1929, c. 219, §3.)

5494-10. Regulation of flight of aircraft.—Flight in aircraft over the lands and waters of this state is lawful, unless at such low altituded as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft

or the aeronaut shall be liable as provided in Section 5 [§5494-11]. (Act Apr. 17, 1929, c. 219, §4.)

5494-11. Owners of aircraft liable for injuries.—The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury or damage is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property damaged. If the aircraft is leased at the time of the injury or damage to person or property, both the owner and lessee shall be liable, and they may be sued, jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the damaged property, shall have a lien on the aircraft causing the injury or damage to the extent of such injury or damage caused by the aircraft or objects falling from it. (Act Apr. 17, 1929, c. 219, §5.)

Record held not to disclose a contract between plaintiff and defendant for special charter of an airplane, and in consequence there may be no recovery for injuries received in emergency landing made by a plane owned and operated by another company, in which plaintiff undertook the flight. *Roberts v. N.*, 201M89, 275NW410.

5494-12. State law to govern as to crimes, etc., in aircraft.—The liability of the owner of one aircraft, to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air shall be determined by the rules of law applicable to torts on land. (Act Apr. 17, 1929, c. 219, §6.)

Liability of owner of aeroplane for injuries to passengers. 16MinnLawRev580.

5494-13. Same—law governing.—All crimes, torts, and other wrongs committed by or against an aeronaut or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime or other wrong by or against the owner of such air-

craft shall be determined by the laws of this state. (Act Apr. 17, 1929, c. 219, §7.)

5494-14. Contractual relations same as on land or water.—All contractual and other legal relations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath. (Act Apr. 17, 1929, c. 219, §8.)

5494-15. Aircraft to be equipped with parachutes.—Each occupant of any aircraft engaged in acrobatic or stunt flying shall be equipped with a parachute, and any aeronaut so operating such aircraft without the occupants being so equipped shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §9.)

5494-16. Certain acts a misdemeanor.—Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this state, shall engage in trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §10.)

5494-17. Hunting from airplanes prohibited.—Any aeronaut or passenger who, while in flight in an airplane, within this state, shall intentionally kill or attempt to kill any birds or animals excepting those on which the state pays a bounty, or uses any airplane for the purpose of concentrating, driving, rallying or stirring up migratory water-fowl, shall be guilty of a misdemeanor. (Act Apr. 17, 1929, c. 219, §11; Apr. 17, 1933, c. 314.)

5494-18. Interpretation and construction.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it and to harmonize, as far as possible with federal laws and regulations on the subject of aeronautics. (Act Apr. 17, 1929, c. 219, §12.)

5494-19. Uniform state law for aeronautics.—This act may be cited as the uniform state law for aeronautics. (Act Apr. 17, 1929, c. 219, §13.)

5494-20. Application.—The provisions of this act shall not apply to naval or military aircraft whether owned by or used in the service of this state or the United States. (Act Apr. 17, 1929, c. 219, §14.)

5494-21. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 17, 1929, c. 219, §15.)

UNIFORM AIR LICENSING AND AIR TRAFFIC ACT

5494-22. Definitions.—In this act, the term "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

The term "Public Aircraft" means an aircraft used exclusively in the governmental service of the United States or of any state or territory thereof.

The term "Civil Aircraft" means any aircraft other than a public aircraft used as provided in Section 2, Subdivision B of the Federal Air Commerce Act of 1926 [Mason's U. S. Code, Supp. No. 1, Title 49, §§171 to 184].

The term "Airmen" means any individual (including the person in command, and any pilot, mechanic or member of the crew) who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling or repairing of aircraft.

The term "Person" means an individual, a partnership, or two or more individuals having a joint or common interest, or a corporation.

The term "air commerce" means transportation in whole or in part by aircraft of persons or property for hire, navigation of aircraft and furtherance of a business, or navigation of aircraft from one place to another for operation in the conduct of a business. (Act Apr. 23, 1929, c. 290, §1.)

Probably superseded by §§5494-36½ to 5494-36¾w, post.

Does not have the effect of withdrawing aeroplanes from taxation as personal property. Op. Atty. Gen., Mar. 30, 1931.

5494-23. United States air commerce act to apply.—It is hereby declared that the policy, principles and practices established by the United States Air Commerce Act of 1926 [Mason's U. S. C. A., supp. No. 1, Title 49, §§171 to 184], and all existing amendments thereto, are hereby adopted and extended and made applicable, mutatis mutandis, to cover all air traffic in this state, so far as not covered by federal law at any time. (Act Apr. 23, 1929, c. 290, §2.)

See note under 5494-22.

5494-24. Registrar of motor vehicles to administer act.—The registrar of motor vehicles shall administer the provisions of this act, and for such purpose is authorized to make such regulations as are necessary to execute the functions vested in him by this act, including air traffic rules, which regulations shall conform to and coincide with, so far as possible the provisions of the Air Commerce Act of 1926, and existing amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations and air traffic rules issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §3.)

See note under 5494-22.

5494-25. Aircraft must be licensed.—No civil aircraft shall be flown in air commerce in this state unless such aircraft either is licensed as provided by Section 6 [5494-27] of this act, or shall have an appropriate existing license under federal law. (Act Apr. 23, 1929, c. 290, §4.)

See note under 5494-22.

5494-26. Pilots must be licensed.—No person shall act as an airman of any civil aircraft when such aircraft is flown or operated in this state unless he shall have either a license as provided in Section 7 [5494-28] of this act, or an appropriate existing license under federal law. (Act Apr. 23, 1929, c. 290, §5.)

See note under 5494-22.

5494-27. Registrar to issue and revoke licenses.—The registrar of motor vehicles shall provide for the issuance and expiration, and for the suspension and revocation of licenses of civil aircraft, in accordance with the regulations promulgated by him, which regulations shall generally conform to and coincide with the provisions of the Air Commerce Act of 1926, and existing amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §6.)

See note under 5494-22.

5494-28. To promulgate rules and regulations.—The registrar of motor vehicles shall provide for the issuance and expiration, and for the suspension and revocation of licenses as airmen to persons applying therefor in accordance with regulations promulgated by him, which regulations shall conform to and coincide with, so far as possible, the provisions of the Air Commerce Act of 1926, and amendments thereto, passed by the Congress of the United States, and Air Commerce Regulations issued from time to time pursuant thereto. (Act Apr. 23, 1929, c. 290, §7.)

See note under 5494-22.

5494-29. Fees for registration.—The registrar of motor vehicles shall collect fees as follows:

For the examination and tests of an applicant for an airman's license	\$10.00
For the examination and inspection of aircraft	10.00
For the issuance of certificate of registration for every aircraft	2.00

which fees shall be paid to the state treasury. (Act Apr. 23, 1929, c. 290, §8.)

See note under 5494-22.

5494-30. Not to apply to interstate commerce.—The provisions of this act shall not apply to civil aircraft or airmen while engaged exclusively in commercial flying constituting an act of interstate or foreign commerce, nor to public aircraft. (Act Apr. 23, 1929, c. 290, §9.)

See note under 5494-22.

5494-31. Violations—penalties.—Any person who acts as an airman for any civil aircraft when flown or operated in this state (except as in Section 9 provided) without holding an existing airman's license issued either in accordance with the provisions of this act or under federal law; or who flies or causes to be flown in this state any civil aircraft (except as in Section 9 [5494-30] provided) without an existing license for such aircraft issued either in accordance with the provisions of this act or under federal law; or who violates any provisions of this act or any rule or regulation promulgated hereunder shall be punishable by a fine of not more than \$100.00 or by imprisonment for not more than 90 days, or both. (Act Apr. 23, 1929, c. 290, §10.)

See note under 5494-22.

5494-32. Licensed aircraft to be designated.—Every civil aircraft licensed by this state shall have a letter "M" painted in one color in sharp contrast to the color of the aircraft on the lower surface of the right wing and the upper surface of the upper left wing, the top of the letter to be toward the leading edge, the height to be at least four-fifths of the mean chord; provided, however, that in the event four-fifths of the mean chord is more than thirty inches, the height of the letter need not be more but shall not be less than thirty inches. The failure to display the letter "M" as hereinbefore provided, or the unauthorized display thereof, is unlawful and every owner, operator, or lessee of said aircraft who violates this provision shall be guilty of a misdemeanor. (Act Apr. 23, 1929, c. 290, §11.)

See note under 5494-22.

5494-33. Construction.—This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. (Act Apr. 23, 1929, c. 290, §12.)

See note under 5494-22.

5494-34. Title of act.—This act may be cited as the Uniform Air Licensing and Air Traffic Act. (Act Apr. 23, 1929, c. 290, §13.)

See note under 5494-22.

5494-35. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed. (Act Apr. 23, 1929, c. 290, §14.)

See note under 5494-22.

5494-36. Effective November 1, 1929.—This act shall take effect from and after November 1st, 1929. (Act Apr. 23, 1929, c. 290, §15.)

See note under 5494-22.

ACT TO REGULATE AERONAUTICS

5494-36 1/2. Definitions.—When used in this Act.

(a) "Aeronautics" means the act or practice of the art and science of transportation by aircraft, and operation, construction, repair or maintenance of aircraft, airports, landing fields, emergency landing strips, air navigation facilities, or air instruction.

(b) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in the air, except a parachute or other contrivance designed for such navigation, but used primarily as safety equipment.

(c) "Public Aircraft" means an aircraft used exclusively in the governmental service, including military and naval aircraft, or of any state or territory thereof.

(d) "Civil Aircraft" means any aircraft other than a public aircraft.

(e) "Airport" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, and which provides facilities for the shelter, supply, and repair of aircraft, and which, as to size and design, has at least 1,800 feet of effective landing length in all directions, with clear approaches, and which field shall be in good condition for landing at all times, or has landing strips not less than 500 feet wide, permitting landing in at least six directions at all times, with at least one landing strip aligned with the general direction of the prevailing wind, the landing strips not to cross or converge at angles at less than 40 degrees, nor any one of the landing strips to be less than 1,800 feet in effective length with clear approaches, or has two landing strips, one aligned with the general direction of the prevailing wind, permitting at least 4-way landing at all times and having clear approaches, the landing strips to be at least 500 feet wide and at least 2,500 feet in effective length, and not to cross or converge at an angle less than 60 degrees; and which, in any case hereinbefore mentioned, meets the minimum requirements as to surface, marking, equipment and management as may from time to time be provided, by the Minnesota aeronautics commission.

(f) "Landing field" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, which may or which may not provide facilities for the shelter, supply and repair of aircraft, and which meets the minimum requirements as to size, design, surface, marking, equipment and management as may from time to time be provided by the Minnesota aeronautics commission.

(g) "Emergency landing strip" means an area, either of land or water, which is available for the landing and take-off of aircraft, having not less than 200 feet of useable width and not less than 1,000 feet of useable length, the use of which shall, except in case of emergency, be only as provided from time to time by the regulations of the Minnesota aeronautics commission.

(h) "Person" means any individual, association, copartnership, firm, company, corporation, or other association of individuals.

(i) "Air instruction" means the imparting of aeronautical information in any air school, flying club, or by any aviation instructor.

(j) Any person engaged in giving instruction, or offering to give instruction in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, and advertising, representing, or holding himself or itself out as giving or offering to give such instruction, shall be termed and considered an "Air School."

(k) Any person (other than an individual) who, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction, pleasure, or both, shall be termed and considered a "Flying Club."

(l) "Aviation instructor" means any individual engaged in giving instruction, or offering to give instruction, in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, without advertising such occupation, without calling his facilities an "Air school" or anything equivalent

thereto, or without employing or using other instructors. (Act Apr. 22, 1933, c. 430, §1.)

(m) "Commercial Aviation" means the operating of aircraft while carrying persons for hire, either as passengers or while receiving flying instructions. (Added Apr. 29, 1935, c. 359, §1.)

5494-36 1/2 a. Aircraft must be licensed—commercial and non-commercial aircraft—revocation.—It shall be unlawful for any person to operate or navigate, or cause or authorize to be operated or navigated, any civil aircraft within the State unless such aircraft is licensed by the Minnesota aeronautics commission, or shall have an appropriate, effective license issued by the Department of Commerce of the United States, or is licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft, or is a public aircraft of the United States or any state, territory, or possession thereof, or is an aircraft licensed by any state having similar licensing requirements to those of Minnesota.

(a) **Commercial Aircraft.** All aircraft engaged in commercial aviation operating within this state shall conform with respect to design, construction, and airworthiness to the standards prescribed by the United States government with respect to the operation and navigation of civil aircraft subject to its jurisdiction, the Minnesota aeronautics commission is hereby empowered to issue commercial licenses to such aircraft as may be found airworthy, and insofar as is practical, the standards prescribed by the Department of Commerce of the United States with respect to design, construction, and airworthiness, shall be applied to aircraft engaged in commercial aviation within this state, and before issuing a commercial license, the Minnesota aeronautics commission may require that said aircraft shall meet all standards prescribed by the Department of Commerce of the United States for aircraft subject to its jurisdiction. All applications for a commercial license may be in writing, signed by the applicant, and shall be accompanied by such filing fee as the Minnesota aeronautics commission may designate, not exceeding \$25.00 annually for a single motored aircraft or \$50.00 annually for a multimotored aircraft, which fee shall be paid into the state aviation fund.

(b) **Non-commercial Aircraft.** The Minnesota Aeronautics Commission shall issue restricted licenses for the limited operation of non-commercial aircraft as hereinafter provided. All applications for a non-commercial license shall be in writing, signed by the applicant, and shall be accompanied by such filing fee as the Minnesota aeronautics commission may designate, not exceeding \$25.00 annually for a single motored aircraft or \$50.00 annually for a multimotored aircraft, which fee shall be paid into the state aviation fund. When such application is filed, the Commission shall grant a temporary license to test fly said aircraft for a designated period, during which period any licensed transport pilot may conduct flying tests of said aircraft, provided that said aircraft shall not be flown over any inhabited city, town, or village during said period. During the time that said temporary license is in effect, the Minnesota aeronautics commission shall designate a transport pilot or inspector to test said aircraft or otherwise determine whether it is airworthy, and may also designate the place where tests shall be carried on. Such designated pilot or inspector may test fly said aircraft himself or he may require it to be tested within his view by having it subjected to such flying tests as the Minnesota aeronautics commission may require. If said aircraft is determined to be airworthy then the Minnesota aeronautics commission shall issue a license authorizing said aircraft to be flown for non-commercial purposes only, and markings prescribed by the Minnesota aeronautics commission shall be placed on said aircraft to show that same is licensed only for non-commercial purposes.

The Minnesota aeronautics commission is hereby empowered to temporarily or permanently revoke any license issued by it or refuse to issue a license whenever the commission shall determine that any aircraft is not airworthy. (Act Apr. 22, 1933, c. 430, §2; Apr. 29, 1935, c. 359, §2.)

5494-36 1/2 b. Pilots to be licensed—Exceptions—Rules and regulations.—It shall be unlawful for any person to operate or cause to be operated any aircraft in this state unless such person is licensed by the Minnesota aeronautics commission, or is a holder of a correct, effective pilot's license issued by the Department of Commerce of the United States, or is a pilot licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft, or is a pilot licensed by a state having similar licensing requirements to those of Minnesota, or is a pilot in the military or naval service, active or reserve, of the United States or of any state, while operating military or naval aircraft.

The Minnesota aeronautics commission may prescribe such reasonable rules and regulations for the granting of pilot's licenses as it may deem necessary and advisable for the public safety, and the safety of those engaged in aeronautics. (Act Apr. 22, 1933, c. 430, §3; Apr. 29, 1935, c. 359, §3.)

5494-36 1/2 c. Pilots to carry licenses.—The certificate of the license required for pilots shall be kept in the personal possession of the licensee when he is operating aircraft within this State and must be presented for inspection upon the demand of any passenger, or any peace officer of this State, any authorized official or employe of the Minnesota aeronautics commission or any official, manager, or person in charge of any airport in this State upon which he shall land, or upon the reasonable request of any other person. The aircraft license must be carried in the aircraft at all times and must be conspicuously posted therein where it may be readily seen by passengers or inspectors; and such license must be presented for inspection upon the demand of any passenger, any peace officer of this State, any authorized official or employe of the Minnesota aeronautics commission or any official, manager, or person in charge of any airport in this State upon which it shall land, or upon the reasonable request of any other person. (Act Apr. 22, 1933, c. 430, §4.)

5494-36 1/2 d. Minnesota aeronautics commission created.—There is hereby created an aeronautics commission to be known as the Minnesota aeronautics commission, consisting of five persons to be appointed by the Governor as hereinafter provided and to serve without pay. The Governor shall from time to time designate the member of the commission who shall be its chairman and who shall so serve during the term of his appointment. Three of said persons, including the chairman, shall be appointed for a period of four years from and after the second Monday in the January following their appointment, and two for a period of two years from and after the second Monday in the January following their appointment, and upon the expiration of the terms of such respective commissioners the Governor shall appoint their successors, each to serve for a term of four years, and all to serve until their successors are appointed and qualified. No person shall serve on this commission unless he or she at the time of appointment belonged to one of the following groups:

(a) Persons holding a correct and effective pilot's license from the Department of Commerce of the United States, or a pilot's license issued by the Minnesota aeronautics commission.

(b) Commissioned officers holding a flying rating in the armed forces of the United States whether on active duty or in the reserve corps including commissioned officers holding flying ratings in the United States Army, United States Navy, National Guard, or Naval Militia.

(c) Persons actively engaged in or having had at least three years of practical experience in civil aeronautics—provided however, that no more than two members of the commission can belong only to group (c). (Act Apr. 22, 1933, c. 430, §5; Apr. 29, 1935, c. 359, §4.)

The title of Act Apr. 29, 1935, cited, purports to amend "Laws 1933, chapter 430, sections 1, 2, 3, 12, 17 and 21, regulating aeronautics." As it does not mention section 5, it is probably invalid as to this section.

5494-36 1/2 e. Organization.—The commission shall, within thirty days after its appointment, organize, adopt a seal for the commission and make such rules and regulations for the administration of the commission not inconsistent herewith as it may deem expedient, and may from time to time amend such rules and regulations. (Act Apr. 22, 1933, c. 430, §6.)

5494-36 1/2 f. Officers—records.—The commission may appoint a secretary to the commission, whose duty it shall be to keep a full and true record of all its proceedings, and keep the books and records in the general office of the commission, and to perform such other duties as the commission may prescribe. (Act Apr. 22, 1933, c. 430, §7.)

5494-36 1/2 g. May employ assistants.—The commission may employ such clerical and other employes and assistants as it may deem necessary for the proper transaction of its business, and shall fix their salaries, subject to the amount appropriated for the purposes of this act. (Act Apr. 22, 1933, c. 430, §8.)

5494-36 1/2 h. Secretary of State to furnish offices.—The Secretary of State shall provide suitable offices for the commission in the city of Saint Paul, Minnesota, and the commission may maintain offices in any other city in the State of Minnesota, that the commission may designate, and may incur, subject to the amount appropriated for the purposes of this Act, the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act, and the general promotion of aeronautics within the State. (Act Apr. 22, 1933, c. 430, §9.)

5494-36 1/2 i. Duties of commission.—It shall be the duty of the Commission to foster air commerce within the State of Minnesota and the Commission shall have supervision over the aeronautical activities and facilities within the State, which authority shall include supervision and control over all airports, landing fields, emergency landing strips, air instruction, air marking, air beacons, and all other air navigation facilities, and the registration of all pilots and aircraft. Accordingly the commission is empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation, and use, of all airports, landing fields, or emergency landing strips. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and safety of those engaged in aeronautics, and for the promotion of aeronautics, governing the establishment, location, maintenance and operation of all air markings, air beacons, and other air navigation facilities. The commission is further empowered to prescribe such reasonable air traffic rules and other regulations as it shall deem necessary for pub-

lic safety and the safety of those engaged in aeronautics, and for the promotion of aeronautics; provided, however, that all rules and regulations prescribed by the commission under the authority of this section shall not be inconsistent with the then current Federal legislation governing aeronautics and the regulations duly promulgated thereunder. (Act Apr. 22, 1933, c. 430, §10.)

5494-36 1/2 j. Same.—The commission shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interests of those engaged in all phases of the industry and of the general public and of promoting aeronautics. Accordingly, the commission is empowered to expend any or all of the moneys allocated to, and deposited in, the State Aviation Fund, for the acquisition or enlargement by purchase, grant, lease, condemnation, or other means, and for the construction, operation and maintenance of, airports, landing fields, or emergency landing strips within this State, and/or of other aeronautic facilities or services within this State for the safety and advancement of aeronautics, which shall include the joint establishment or provision of such aeronautic facilities or services in co-operation with other State or Federal department or with other political subdivisions of this State. (Act Apr. 22, 1933, c. 430, §11.)

Air school includes either flying or ground instruction or both with reference to payment of license fee. Op. Atty. Gen. (2346), May 21, 1934.

5494-36 1/2 k. Airport operators to make application for approval—licenses.—Within sixty days after the commission is created, all owners and/or operators of all airports, landing fields, air schools, and flying clubs, and the owners and/or operators of all air beacons and air navigation facilities, shall make application to the commission for its approval of such airport, landing field, air school, flying club, air beacon, or other air navigation facility, and the commission shall immediately consider and pass upon such applications. Within the same period all pilots and owners and/or operators of all aircraft shall register the Federal License of said airmen and of said aircraft in such manner as the commission may by regulation prescribe. All proposed airports, landing fields, air schools, flying clubs, air beacons, or other air navigation facilities shall first be approved by the commission before they or any of them shall be so used or operated. It shall be unlawful for any airport, landing field, air school, flying club, air beacon, or other navigation facility to be used or operated without the approval of the commission; and it shall be unlawful for any aircraft, except in case of emergency, to land upon or take off from any area in the state of Minnesota other than an airport, landing field, or emergency landing strip; provided, however, that no license, rule, order, or regulation promulgated under the authority of this section or of this entire Act shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the Government of the United States or by this State. The commission is hereby authorized to issue a certificate of its approval in each case and to make the following charges therefor:

For the issuance of each annual certificate of registration of each Federal license for pilots and aircraft, a fee to be fixed by the Minnesota aeronautics commission, not exceeding \$10.00 may be charged.

For issuance of each annual airport license, \$10.00.

For issuance of each annual landing field license, \$10.00.

For issuance of each annual air school license, \$10.00.

For issuance of each annual flying club license, no fee shall be charged.

For issuance of each annual air beacon license, no fee shall be charged.

For issuance of each annual other air navigation facility license, no fee shall be charged. (Act Apr. 22, 1933, c. 430, §12; Apr. 29, 1935, c. 359, §5.)

Air school includes either flying or ground instruction or both with reference to payment of license fee. Op. Atty. Gen. (234d), May 21, 1934.

5494-36 ½ l. Commission may conduct investigation.—The commission, or any commissioner, or officer of the commission designated by the commission, shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this Act, and all accidents in aeronautics within this State. All hearings conducted by the commission shall be open to the public. Each commissioner, and every officer of the commission designated by it to hold any inquiry, investigation, or hearing, shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of this Act, the Minnesota aeronautics commission, or its authorized representative, may invoke the aid of any Court in this State. The court may thereupon order the witness to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Any failure to obey the order of said court may be punished by the court as a contempt thereof. (Act Apr. 22, 1933, c. 430, §13.)

5494-36 ½ m. Conduct of investigation.—In order to facilitate the making of investigations by the Minnesota aeronautics commission, in the interest of the public safety and the promotion of aeronautics, the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceedings growing out of any matter referred to in said investigation, hearings, or report thereof, nor shall any commissioner or employe of the Minnesota aeronautics commission be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, and, further, no commissioner or employe of the Minnesota aeronautics commission shall be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. (Act Apr. 22, 1933, c. 430, §14.)

5494-36 ½ n. Commission to keep copy of rules and regulations on file.—The commission shall keep on file with the Secretary of State, and at the principal office of the commission, a copy of all their rules and regulations, for public inspection. On or before the thirty-first day of December, in each year, the commission shall make to the Governor a full report of its proceedings for the year ending the first day of December in each year, and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable. (Act Apr. 22, 1933, c. 430, §15.)

5494-36 ½ o. Commission to enforce act.—It shall be the duty of the commission, its members and employes, and every county and municipal officer charged with the enforcement of State and municipal laws, to enforce, and assist in the enforcement of this Act. The commission is further authorized in the name of "The State" of Minnesota to enforce the provisions of this act by injunction in the District Courts of this State. Other departments and political subdivisions of this State are further authorized to cooperate with the Minnesota aeronautics commission in the development of aeronautics and aeronautic facilities within the State. (Act Apr. 22, 1933, c. 430, §16.)

5494-36 ½ p. Powers of commission.—In any case where the commission rejects an application for a pilot's license or a license for any aircraft, or for permission to operate or establish an airport, landing

field, air school, flying club, air beacon, or other air navigation facilities, or in any case where the commission shall issue any order requiring certain things to be done, or revoking any license on any aircraft, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed.

In any case where the commission may deem it necessary it may order the closing of any airport, landing field, or order any air school, flying club, or air beacon, or other air navigation facility to cease operations until it shall have complied with the requirements laid down by the commission. To carry out the provisions of this Act the Minnesota aeronautics commission and any officers, State or municipal, charged with the duty of enforcing this Act, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where such airports, landing fields, air schools, flying clubs, air beacons, or other air navigation facilities are operated. Any order made by this commission pursuant to this Act shall be served upon the interested person by registered mail or in person before such order shall become effective. (Act Apr. 22, 1933, c. 430, §17; Apr. 29, 1935, c. 359, §6.)

5494-36 ½ q. Appeal to District Court.—Any person against whom an order has been entered may within thirty days after the service thereof appeal to the District Court of the county in which any part of the property affected by the order is located, for the purpose of having the reasonableness or lawfulness of the order inquired into and determined. (Act Apr. 22, 1933, c. 430, §18.)

5494-36 ½ r. Rights waived.—If no appeal is taken from the order of the commission within the period fixed, the party against whom the order was entered, shall be deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by a court and there shall be no trial of that issue in any court in which suit may be instituted for the penalty for failure to comply with the order. (Act Apr. 22, 1933, c. 430, §19.)

5494-36 ½ s. Violation a misdemeanor.—Any person failing to comply with the requirements of, or violating any of the provisions of this Act, or the rules and regulations for the enforcement of this Act made by the Minnesota aeronautics commission, shall be guilty of a gross misdemeanor and punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than ninety days, or both. (Act Apr. 22, 1933, c. 430, §20.)

5494-36 ½ t. State aviation fund created.—There is hereby created a fund to be known as the "State Aviation Fund." All moneys received from the registration of federal licenses on aircraft and pilots, from the licensing of aircraft, airports, landing fields, air schools, or other licenses issued under the provisions of this Act, shall be paid into the State Treasury and credited to such fund. (Act Apr. 22, 1933, c. 430, §21; Apr. 29, 1935, c. 359, §7.)

5494-36 ½ u. Funds to be used for expenses of commission.—Any monies or fees coming into the hands of said Commission may be used for the necessary expenses of the Commission essential to the carrying out of this act but no overdraft shall be created by reason of any such expenditures. (Act Apr. 22, 1933, c. 430, §22.)

5494-36 ½ v. Provisions separable.—If any provision of this Act is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby. (Act Apr. 22, 1933, c. 430, §23.)

5494-36 1/2 w. Inconsistent acts repealed.—All acts or parts of acts which are inconsistent with the provisions of this Act are hereby repealed. (Act Apr. 22, 1933, c. 430, §24.)

MUNICIPAL FLYING FIELDS

5494-37. Cities and villages may equip air fields.—The governing body of any city, village, or town in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of air planes and other aircraft either within or without the limits of such cities, villages, and towns, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such city, village, or town. (Act Apr. 17, 1929, c. 217, §1.)

In cities of the first class, see §§1626-1 to 1626-16.
City of Springfield may use surplus proceeds derived from public utilities for general city purposes, such as purchase of land for airport. Op. Atty. Gen., Jan. 3, 1934.
City may purchase land outside of city limits to be used for airport. Op. Atty. Gen., Jan. 11, 1934.
City council may acquire land outside corporate limits for an airport without submission of question to voters. Op. Atty. Gen. (59a-40), May 20, 1939.

5494-38. County board may acquire airports.—The board of county commissioners of any county in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of such counties, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county. [That any] power or authority granted to any county or other political subdivision of the state by the provisions of [this act] may, in any county of this state having at any time an area of over 5,000 square miles and a population of over 200,000 inhabitants, be exercised in co-operation with the governing body of any other such political subdivision in such county, as well as separately, in order to carry into effect the powers herein granted, whenever the governing body or bodies of any such political sub-division shall determine it to be in the public interest. Any co-operative agreement entered into between the governing bodies of any two or more such political subdivisions, either for the carrying on or abandonment of any airport or landing field in such county shall be binding upon their respective political sub-divisions.

That any payments heretofore made by any such county having over 5,000 square miles of area and a population of over 200,000 inhabitants, to any other political sub-division of said county, is hereby legalized and declared valid in all respects; provided that no such [county] or political subdivision in such [county] shall, jointly or separately, have authority to spend in any calendar year more than \$50,000, in order to carry into effect the powers herein granted. Any such expenditures shall be included in, and shall not be in excess of, any limitations on expenditures of such political subdivision now fixed by law. (Laws 1929, c. 217, §2; Apr. 25, 1931, c. 354.)

County board may not appropriate county funds for improvement of airport owned by municipality. Op. Atty. Gen., Feb. 15, 1934.

5494-39. May exercise power of eminent domain.—Any lands acquired, owned, controlled, or occupied by such cities, villages, towns, or counties for the purpose enumerated in Sections 1 and 2 [§§5494-37, 5494-38] hereof shall and are hereby declared to be acquired, owned, controlled, and occupied for a public purpose and as a matter of public necessity, and such cities, villages, towns, or counties shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity. (Act Apr. 17, 1929, c. 217, §3.)

5494-40. May acquire lands by gift, purchase, or otherwise.—Private property needed by any city, village, town, or county for an airport or landing field may be acquired by gift or by purchase if the city, village, town, or county is able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by the law under which the city, village, town or county is authorized to acquire real property for public purposes, other than street purposes, or if there be no such law, in the manner provided for and subject to the provisions of the condemnation law. The purchase price or award for real property acquired for an airport or landing field may be paid for by appropriation of moneys available therefor or wholly or partly from the proceeds of the sale of bonds of the city, village, town, or county issued as hereinafter specified. (Act Apr. 17, 1929, c. 217, §4.)

City of Waseca under its home rule charter has power to condemn lands outside its limits for airport, and procedure to be followed is that provided by such charter. Op. Atty. Gen. (817f), Aug. 3, 1934.

5494-41. May maintain and operate flying fields.—The governing body of any city, village, town, or county which has established an airport or landing field and acquired, leased, or set apart real property for such purpose may construct, improve, equip, maintain, and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance, and operation thereof, in any suitable office, board, or body of such city, village, town, or county. The expenses of such construction, improvement, equipment, maintenance, and operation shall be a city, village, town, or county charge as the case may be. The governing body of any city, village, town, or county may adopt regulations and establish fees or charges for the use of such airport or landing field, or may authorize any officer, board or body of such village, city, town, or county having jurisdiction to adopt such regulations and establish such fees or charges, subject, however, to the approval of such governing body before they shall take effect. (Act Apr. 17, 1929, c. 217, §5.)

A city or village may erect poles and high lines outside of corporate limits for purpose of lighting airport without submitting proposition to electors. Op. Atty. Gen. (234b), Dec. 27, 1934.

5494-42. Annual appropriation.—The governing body of any city, village, town, or county to which this act is applicable having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such city, village, town, or county a sum sufficient to carry out the provisions of this act, not exceeding, however, the taxing limits now provided by law. (Act Apr. 17, 1929, c. 217, §6.)

5494-43. Application.—The provisions of this act shall apply to all cities of the state, excepting all cities of the first class, including every city now or hereafter having and operating under a home rule charter adopted under, and pursuant to Section 36, of Article 4, of the State Constitution; provided, however, that this act shall not apply to any privately owned or controlled airport and aviation field. (Act Apr. 17, 1929, c. 217, §7.)

5494-44. Bonds may be issued.—Any such city, village, town, or county is hereby authorized and empowered to issue its negotiable general obligation bonds for the purpose of acquiring, establishing, constructing, enlarging or improving such airport or landing field and a site therefor in the manner and within the limits prescribed by Chapter 10, General Statutes, Minnesota 1923, and Chapter 131, Laws of 1927 [§§1938-3 to 1938-13] for the issuance of bonds for the acquisition of other revenue producing public conveniences. Such bonds shall be sold in the manner prescribed by Section 1943, General Statutes 1923, as amended. The amount of any such bonds at any

time outstanding shall be included in computing the net debt of the city, village, town, or county issuing the same for the purpose of computing any limitation of its indebtedness prescribed by law or by its charter. (Act Apr. 17, 1929, c. 217, §8.)

5494-45. Acts legalized.—The acquisition of property within or without the limits of any such city, village, or town for airports or landing fields, by purchase or gift, heretofore made by any such municipality, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective. (Act Apr. 17, 1929, c. 217, §9.)

5494-46. May acquire air rights.—Where necessary in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this Act, the legislative bodies of counties, municipalities, and other political subdivisions of this State are hereby granted authority to acquire such air rights over private property as are necessary to insure safe approaches to the landing

areas of said airports and landing fields. Such air rights may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided by law for the acquisition of the airport or landing field itself or the expansion thereof. (Act Apr. 20, 1931, c. 214, §1.)

5494-47. May acquire for any term.—The legislative bodies of counties, municipalities, and other political subdivisions of this State are hereby authorized to acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and to place, operate, and maintain suitable lights for the nighttime marking of buildings, or other structures or obstructions interfering with the safe operation of aircraft utilizing airports and landing fields acquired or maintained under the provisions of this Act. Such rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided by law for the acquisition of the airport or landing field itself or the expansion thereof. (Act Apr. 20, 1931, c. 214, §2.)

CHAPTER 32

Preservation of Game and Fish

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates a new department of conservation, to which is transferred the powers of the commissioner of game and fish.

PART I.—TITLE TO WILD ANIMALS: TAKING: TRANSPORTATION

5495. Title to wild animals—Taking.

The provisions of the game law are to be construed according to the fair import of their terms, viewed in the light of the purpose of the law. 177M483, 225NW430.

5496. Ownership in state.

172M469, 215NW837; note under 55647.

Where a full-blood Chippewa Indian received a patent in fee from United States government to 160 acres of land on White Earth Indian Reservation, and trust period having expired thereon, sold land and removed therefrom, court had jurisdiction of prosecuting for violation of state game laws. State v. Bush, 196M413, 263NW300. See Dun. Dig. 4348.

5497. Taking of wild animals restricted.

Op. Atty. Gen., May 24, 1933; note under 55625-1.

The game law does not permit the taking of waterfowl from an artificial blind constructed in public waters of a lake upon an artificial embankment. 177M483, 225NW430.

Frogs cannot be imported into Minnesota for breeding purposes but may be imported for food purposes. Op. Atty. Gen., June 8, 1933.

Sturgeon cannot be taken except in waters forming a common boundary between this state and the state of Wisconsin. Op. Atty. Gen. (211c-12), Sept. 12, 1934.

5498. Manner of taking game.—Birds and quadrupeds protected by law shall be taken only in the daytime with a gun not larger in bore than a ten gauge fired from the shoulder, or with a bow and arrow, except that upland game birds and quadrupeds may be taken with a rifle or pistol. It shall be unlawful to use any kind or type of silencer on any firearm, or to own or possess any kind or type of silencer for a firearm, or to own or possess any firearm equipped or designed to have a silencer attached thereto. No person while in a motor vehicle shall take game, nor discharge any firearm therefrom at any wild animal, nor carry a gun or other firearm, except a pistol or revolver, in a motor vehicle unless the same be unloaded in both barrels and magazine and taken apart or contained in a case. Traps for the purpose of taking fur bearing animals protected by law may be used as herein provided but traps shall not be staked or set in any manner during the closed season for the same. A person may take game birds during the open season with the aid of a dog, unless specifically

prohibited herein. ('19, c. 400, §4; '25, c. 380, §1; 1929, c. 170; Apr. 25, 1931, c. 399, §1.)

It is illegal to set traps in the evening before the day on which season opens. Op. Atty. Gen., Feb. 14, 1929.

"Day time" as applied to birds and quadrupeds which cannot be classed as migratory game birds is the period between sunrise and sunset. Op. Atty. Gen., Dec. 23, 1931.

"Day time" so far as migratory game birds are concerned is determined by section 6554. Op. Atty. Gen., Dec. 23, 1931.

There is no provision of law providing for permit to motor express service to carry guns for protection of cargo. Op. Atty. Gen. (201a-1), Aug. 2, 1934.

Bill absolutely prohibiting carrying firearms immediately preceding the opening of deer season would be unconstitutional, but a law requiring that firearms be sealed when carried would be valid. Op. Atty. Gen. (82p), Feb. 26, 1935.

Officers of the law can carry a loaded rifle in an automobile while engaged in duties of office, otherwise they cannot. Op. Atty. Gen. (201a-1), July 1, 1936.

A single hunter may not use two guns in a duck blind. Op. Atty. Gen. (210a-1), Oct. 4, 1937.

5499. Manner of taking fish.—Fish, unless otherwise specifically permitted by law, shall be taken only by angling. It shall be unlawful to take fish of any kind in any manner by the use or with the aid of artificial lights of any kind. ('19, c. 400, §5; '23, c. 426, §1; '25, c. 380, §1; Apr. 27, 1929, c. 417, §1.)

1. No person shall set, place or use any snag line or snag pole, snag hook, or parts thereof, or cluster of fishhooks that might be attached to same, designed to be placed in or drawn through the water for the purpose of catching or drawing such hooks into the body of fish, provided that the use of one trolling spoon or one artificial bait is permitted.

2. Violation of this chapter shall be a misdemeanor. (Added Apr. 21, 1933, c. 392, §23.)

The title to Act Apr. 21, 1933, c. 392, does not enumerate §5499 as one of the sections amended. See note under §5505.

It is legal for a person to use a floating fish house in spearing fish. Op. Atty. Gen., Apr. 16, 1931.

This section is subject to the proviso of Laws 1931, c. 323 [§5574, herein], permitting the use of lights in spearing rough fish under a permit from the commissioner of game and fish. Op. Atty. Gen., May 1, 1931.

One may not lawfully make use of an artificial light permanently fixed upon a dock for the convenience of persons using the lake during the night. Op. Atty. Gen., Oct. 26, 1931.

Laws 1933, c. 49, does not repeal this section as amended by Laws 1929, c. 417, except as to counties enumerated in section 2. Op. Atty. Gen., Apr. 10, 1933.

Artificial lights may not be used as an aid in spearing rough fish except in counties enumerated in Laws 1933, c. 49, §2. Op. Atty. Gen., Apr. 10, 1933.