

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

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or the responsible parent shall have jurisdiction of the subject matter. (R. S. c. 125, § 1. 1947, c. 369, § 1. 1959, c. 75, § 1.)

Cross reference.—See c. 158-A, §§ 1-10, graph in this section. As the rest of the section was not affected by the amendment, re Uniform Gifts to Minors Act.

Effect of amendment.—The 1959 amendment added the above as the last para-

graph in this section. As the rest of the section was not affected by the amendment, it is not set out.

Sec. 2. Desertion of wife or minor children in destitute circumstances and willful nonsupport, when a misdemeanor.

Courts having jurisdiction in the places of residence of any of the dependents or the responsible parent shall have jurisdiction of the subject matter. (R. S. c. 125, § 2. 1947, c. 369, § 2. 1959, c. 75, § 2.)

Effect of amendment.—The 1959 amendment added the above as the last paragraph in this section. As the rest of the

section was not affected by the amendment, it is not set out.

Crimes against Children.

Sec. 12-A. Sale of near beer to minors prohibited. — Any person who shall sell to a minor any malt beverage under the name of "near beer" or any other name which tends to infer that such beverage has an alcoholic content, or shall sell to a minor any malt extract which may be used in the manufacture of beer shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$100 or by imprisonment for not more than 60 days. (1959, c. 155.)

Sec. 13-A. Aiding in delinquency of child under 17 years.—Any person who shall be found to have caused, induced, abetted, encouraged or contributed toward the waywardness or delinquency of a child under the age of 17, or to have acted in any way tending to cause or induce such waywardness or delinquency, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (1955, c. 414, § 1.)

Sec. 14. Violation of §§ 9, 12 and 13-A.—In order to find any person guilty of violating the provisions of sections 9, 12 and 13-A, it shall not be necessary to prove that the child is actually in delinquency or distress, provided it appears from the evidence that through any act or neglect or omission of duty or by any improper act or conduct on the part of the accused the distress or delinquency of any child may have been caused or merely encouraged. (R. S. c. 125, § 13. 1955, c. 414, § 2.)

Effect of amendment.—The 1955 amendment added § 13-A to the sections referred to.

Chapter 139.

Gambling. Bucket Shops. Lotteries. Beano.

Sections 21 to 27. Beano or Bingo.

Section 28. Audience Participation.

Gambling.

Sec. 8. Loser by gambling or betting may recover loss; form of execution.—Whoever, by gambling or betting on persons gambling, loses to any person so gambling or betting any money or goods, and pays or delivers any part thereof, may sue for and recover the same of the winner in a civil action brought

within 3 months thereafter. If the loser does not, without covin or collusion, within said time prosecute therefor with effect, any other person may sue for and recover of the winner treble the value of the same in such action, $\frac{1}{2}$ to his own use and $\frac{1}{2}$ to the town. All executions issued on judgments in favor of the loser or in favor of a 3rd person, as above-mentioned, shall show that the judgment was rendered against the defendant for or on account of money won at gambling, and shall order the defendant to be committed to jail for 3 months from the date of arrest, at the county's expense, unless the judgment, costs and board while in jail are sooner paid; after which time he may be released, on giving bond or disclosing, as in case of poor debtors. (R. S. c. 126, § 8, 1961, c. 317, § 469.)

Effect of amendment.—The 1961 amendment divided this section into three sentences and substituted “a civil action” for

“an action on the case” in the present first sentence.

Lotteries.

Sec. 18. Lotteries and schemes of chance; printing of tickets prima facie evidence.

This section shall not prohibit the awarding of a prize or thing of value as the result of a drawing of a signed slip or certificate where there is no monetary consideration required from the signatory in order to participate in the drawing. (R. S. c. 126, § 18, 1959, c. 310.)

Effect of amendment.—The 1959 amendment added the above as the last paragraph in this section. As the rest of the section was not affected by the amendment, it is not set out.

History of legislation relating to lotteries. — See State v. Bussiere, 155 Me. 331, 154 A. (2d) 702.

The words “scheme or device of chance” in this section do not eliminate the elements of prize, chance, or valuable consideration as essential to the crime of lottery, or establish a new crime in which any of these elements are eliminated. State v. Bussiere, 155 Me. 331, 154 A. (2d) 702.

Elements of crime.—In order to constitute a crime under this section three elements must be present: (1) prize, (2) chance, and (3) a consideration having a

pecuniary value paid directly or indirectly by some participant. State v. Bussiere, 155 Me. 331, 154 A. (2d) 702.

The consideration necessary to support a lottery violation must be something more than a mere detriment to the participant or a benefit to the promoter; a person must risk or hazard something of value, however small, with the hope or opportunity of obtaining a larger sum by chance. State v. Bussiere, 155 Me. 331, 154 A. (2d) 702.

When giving away of tickets becomes a crime. — The giving away of a ticket entitling a person to a chance of drawing a prize becomes a crime only if the prize is drawn in a lottery, scheme or device of chance. State v. Bussiere, 155 Me. 331, 154 A. (2d) 702.

Beano or Bingo.

Sec. 21. Beano or Bingo.—No person, firm, association or corporation shall hold, conduct or operate the amusement commonly known as “Beano” or “Bingo” for the entertainment of the public within the state unless a license therefor is obtained from the chief of the state police. Sections 21 to 27 shall not be construed to apply to any other amusement or game. (R. S. c. 126, § 21, 1959, c. 37, § 1.)

Effect of amendment.—The 1959 amendment added the words “or ‘Bingo’” in this section.

Sec. 23. Issuance of licenses; fees.—The chief of the state police may issue licenses to operate such amusement for a period of 6 days to any fair association or bona fide charitable, educational, fraternal, patriotic, religious or veterans organization which was in existence at least 2 years prior to its application for a license, when sponsored, operated and conducted for the exclusive benefit of such organization by duly authorized members thereof. Said 2 years' limitation shall not apply to any chartered posts of veterans organizations, na-

tionally established, even though such posts have not been in existence for 2 years prior to their application for a license, and provided further, that a license may be issued to a fair association to operate such amusement in conjunction with its annual fair when sponsored, operated and conducted for the benefit of such fair association. No such license shall be issued to any person, firm or corporation other than a fair association or bona fide charitable, educational, fraternal, patriotic, religious or veterans organization. The fee for such license shall be \$2 and shall be paid to the treasurer of state to be credited to the general fund. No such licenses shall be assignable or transferable. Nothing contained herein is to be construed to prohibit any fair association or bona fide charitable, educational, fraternal, patriotic, religious or veterans organization from obtaining more than one 6-day license. (R. S. c. 126, § 23. 1947, c. 172. 1957, c. 206.)

Effect of amendment.—The 1957 proviso at the end of the present second amendment made the former first sentence into two sentences and added the

Sec. 26. Effect of other laws.—All acts and parts of acts inconsistent herewith shall be inoperative as to sections 21 to 27 and the share of the state stipend for aid and encouragement to agricultural societies shall not be withheld from any such society because of the conducting on the fair grounds of the game of “Beano” or “Bingò.” (R. S. c. 126, § 26. 1959, c. 37, § 2.)

Effect of amendment.—The 1959 amendment added the words “or ‘Bingo’” at the end of this section.

Audience Participation.

Sec. 28. Audience or reader participation in radio, television or newspaper amusements or games.—Nothing contained in this chapter shall apply to or prohibit the conducting or operating over television or radio or by newspaper publication with audience or reader participation as directed by the sponsor of any amusement, game or program, whether or not the same involves the awarding of prizes or the element of chance, provided the participants pay no consideration in cash or other property directly or indirectly for the privilege of participating therein. (1955, c. 16. 1959, c. 94.)

Effect of amendment.—The 1959 amendment added “or by newspaper publication” following “radio,” “or reader” following

“audience” and “as directed by the sponsor” following “participation” in this section.

Chapter 140.

Cruelty to Animals.

Sec. 1. Maliciously killing or injuring domestic animals; stealing.—Whoever willfully or maliciously kills, wounds, maims, disfigures or poisons any domestic animal or dog, or exposes any poisonous substance with intent that the life of such animal or dog shall be destroyed thereby, or steals or entices away or confines or harbors such animal for the purpose of obtaining a reward or for any other illegal purpose shall, when the offense is not of a high and aggravated nature, be punished by a fine of not more than \$300 or by imprisonment for not more than 3 months, or by both, and when the offense is of a high and aggravated nature by a fine of not more than \$1,000 or by imprisonment for not more than 4 years. (R. S. c. 127, § 1. 1961, c. 3.)

Effect of amendment.—The 1961 amendment substituted the language now following “illegal purpose” for “shall be pun-

ished by a fine of not less than \$20 nor more than \$500, or by imprisonment for not more than 4 years.”