

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

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.

Quoted in State v. Barnette, 158 Me. 117, 179 A. (2d) 800.

Sec. 15. Jurisdiction.—In all prosecutions for misdemeanors under this chapter, the district court shall have original and concurrent jurisdiction with the superior court. (R. S. c. 125, § 14. 1963, c. 402, § 223.)

Effect of amendment.—The 1963 amendment deleted “the provisions of” preceding “this chapter,” substituted “the district court” for “trial justices within their respective counties” and deleted “municipal courts and” following “jurisdiction with.”

280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Application of amending act.—Section

Chapter 139.

Gambling. Bucket Shops. Lotteries. Beano.

Sections 13-A to 13-B. Bribery of Participants in Professional or Amateur Contests.

Sections 21 to 27. Beano or Bingo.

Section 28. Audience Participation.

Gambling.

Sec. 2. Keeping a gambling house or permitting gambling in house or shop.—Whoever keeps or assists in keeping a gambling house or tenement or other place occupied, used, kept or resorted to for the purposes described in section 12, or is found gambling or present as described in said section 12, or permits any person to gamble in any way in any tenement or other place under his care or control, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 4 months; and the municipal officers, constables and police officers of towns and cities and the assessors of plantations are required promptly to enforce the laws against gambling rooms and to make complaint against any person in their respective municipalities when there is probable cause to believe such person to be guilty of a violation of the provisions of this section. The district court shall have original jurisdiction, concurrent with the superior court, in all prosecutions for violations of this section. (R. S. c. 126, § 2. 1963, c. 402, § 224.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Trial justices” at the beginning of the last sentence and deleted “municipal courts and” preceding “the superior court” in that sentence.

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Application of amending act.—Section

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 re-

cover of the winner treble the value of the same in such action, 1/2 to his own use and 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.

Sec. 11. Sale of, offering for sale or soliciting orders for punch boards, seal cards, slot gambling machines, etc.—No person shall have in his actual or constructive possession any punch board, seal card, slot gambling machine or other implements, apparatus or materials of any form of gambling, and no person shall solicit, obtain or offer to obtain orders for the sale or delivery of any punch board, seal card, slot gambling machine or other implements, apparatus or material of gambling. Any person violating the provisions of this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 4 months; and the municipal officers, constables and police officers of towns and cities, the assessors of plantations and licensed private detectives are required promptly to enforce the provisions of this section and to make complaint against any person in their respective municipalities where there is probable cause to believe such person to be guilty of a violation of this section. The district court shall have original jurisdiction, concurrent with the superior court, in all prosecutions for violation of this section. (R. S. c. 126, § 11. 1963, c. 402, § 225.)

Effect of amendment.—The 1963 amendment substituted "The district court" for "Trial justices" at the beginning of the last sentence and deleted "municipal courts and" preceding "the superior court" in that sentence.

Application of amending act.—See note to § 2.

Search for Implements of Gambling.

Sec. 12. Search warrants for implements of gambling, etc. — When a person makes oath before a proper officer of the district court that he has reason to suspect and does suspect that any tenement or other place is unlawfully used as and for a common gambling house, for the purpose of gambling for money or other property, or is kept, used or occupied for promoting a lottery or for the sale of lottery tickets, or for promoting the game known as policy lottery or policy, or for buying or selling of pools or registering of bets upon any race, game, contest, act or event, and that persons resort to the same for any such purpose, or that implements, apparatus or materials intended to be used in any form of gambling are there kept or deposited, such magistrate, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant commanding the sheriff or any of his deputies or any constable or police officer to enter such tenement or other place and to arrest the keepers thereof, all persons in any way assisting in keeping the same, whether as janitor, doorkeeper, watchman or otherwise, all persons who are there found participating in any form of gambling and all persons present whether so participating or not, if any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet or other implements, apparatus or materials of any form of gambling are found in said place, and to take into their custody all the implements, apparatus or materials of gambling, and all the personal property, prizes, furniture or fixtures, so that they may be forthcoming before some court or magistrate, to be dealt with according to law. All articles

and property seized under the provisions of this section, or found in the possession or under the control of any person arrested for keeping or assisting in keeping a gambling house or for gambling, shall be disposed of in the manner provided in the following section for the disposal of counterfeiting and burglars' tools, except prizes, furniture and fixtures, which shall be turned over to an officer to be sold as provided in section 18, and the finding in any tenement or other place of any lottery, policy or pool tickets, slips, checks, manifold books or sheets, memoranda of any bet, or other implements, apparatus or materials of any form of gambling shall be prima facie evidence that said tenement or other place is occupied, used, kept and resorted to for the purpose of gambling. (R. S. c. 126, § 12. 1963, c. 402, § 226.)

Effect of amendment.—The 1963 amendment substituted “proper officer of the district court” for “trial justice or judge of the municipal court” near the beginning of the first sentence and deleted “as afore-

said” following “materials of gambling” near the end of that sentence.

Application of amending act.—See note to § 2.

Bribery of Participants in Professional Amateur Contests.

Sec. 13-A. Bribery of participants.—Whoever gives, promises or offers to any professional or amateur baseball, football, hockey, polo, tennis or basketball player or boxer or any player or referee or other official who participates or expects to participate in any professional or amateur game or sport or any jockey, driver, groom or any person participating or expecting to participate in any horse race, including owners of race tracks and their employees, stewards, trainers, judges, starters or special policeman, or to any manager, coach or trainer of any team or participant or prospective participant in any such game, contest or sport, any valuable thing with intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory, or in the case of a referee or other official to affect his decisions or the performance of his duties in any way, in a baseball, football, hockey or basketball game, boxing, tennis or polo match or a horse race or any professional or amateur sport, or game, in which such player or participant or jockey or driver or referee or other official, is taking part or expects to take part, or has any duty or connection therewith, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 5 years, or by both. (1963, c. 18.)

Sec. 13-B. Acceptance of bribes by participants. — A professional or amateur baseball, football, hockey, basketball, tennis or polo player, boxer, or jockey, driver or groom or participant or prospective participant or referee or other official or prospective referee or other official in any sport or game or a manager, coach or trainer of any team or individual participant or prospective participant in any such game, contest or sport, who solicits or accepts any valuable thing to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory, or in the case of a referee or other official to affect his decisions or the performance of his duties in any way, in a baseball, football, hockey or basketball game or boxing, tennis or polo match, or horse race or any game or sport in which he is taking part, or expects to take part, or has any duty or connection therewith, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both. (1963, c. 18.)

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 con-

sideration 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.

Sec. 19. Attorney General may have injunction to restrain any lottery.—When it appears to the attorney general that any person has formed or published such a lottery, or taken any measures for that purpose, or is engaged in selling or otherwise distributing tickets, certificates, shares or interests therein, whether such lottery originated in this state or not, he shall immediately make complaint in the name of the state to the superior court for an injunction to restrain such person from further proceedings therein. If satisfied that there is sufficient ground therefor, such court shall forthwith issue such injunction and thereupon it shall order notice to be served on the adverse party to appear and answer to said complaint. Such court, after a full hearing, may dissolve, modify or make perpetual such injunction, make all orders and decrees necessary to restrain and suppress such unlawful proceedings and, if the adverse party neglects to appear, or the final decree of the court is against him, judgment shall be rendered against him for all costs, fees and expenses incurred in the case and for such compensation to the attorney general for his expenses, as the court deems reasonable. (R. S. c. 126, § 19, 1963, c. 414, § 142.)

Effect of amendment.—The 1963 amendment divided the first sentence into two sentences, deleted “some justice of the supreme judicial court or of” formerly preceding “superior court” in the present

first sentence, substituted “court” for “justice” in the present second and third sentences, and substituted “it” for “he” in the present second sentence.

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 appli-

cation 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, nationally 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 "Bingo." (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.)