

MAINE STATE LEGISLATURE

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sion 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.

See c. 136, §§ 33-39, re proceedings when child under 17 years of age is arrested and charged with crime.

Sec. 14. Jurisdiction. R. S. c. 129, §§ 37, 38, 39, 48. 1933, c. 118, §§ 1, 5. In all prosecutions for misdemeanors under the provisions of this chapter, trial justices within their respective counties shall have original and concurrent jurisdiction with municipal courts and the superior court.

CHAPTER 126.

GAMBLING. BUCKET-SHOPS.

Sections 1-11 Gambling.
 Sections 12-13 Search for Implements of Gambling.
 Sections 14-17 Bucket-shops.
 Sections 18-20 Lotteries.
 Sections 21-27 Beano.

Gambling

Sec. 1. Pool selling; penalty. R. S. c. 136, § 4. Whoever engages or participates in pool selling or aids or abets the same by his presence, unless the same is authorized by law, shall be punished by a fine of not more than \$2,000 and by imprisonment for not more than 2 years.

See c. 77, re pari mutuel pool selling.

Sec. 2. Keeping a gambling-house or permitting gambling in house or shop; penalty. R. S. c. 136, § 1. 1933, c. 118, §§ 1, 5. 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. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, in all prosecutions for violations of this section.

15 Me. 237; 23 Me. 44; 85 Me. 237; *99 Me. 488; 125 Me. 458; 131 Me. 285; 135 Me. 323.

Sec. 3. Gambling; penalty. R. S. c. 136, § 2. Whoever gambles, or bets on any person gambling, shall be punished by a fine of not less than \$1, nor more than \$20, to be recovered by complaint or indictment to the use of the prosecutor.

Sec. 4. Winning more than \$3 at one time by gambling; penalty. R. S. c. 136, § 3. Whoever is convicted, by indictment found within 6 months, of win-

ning, at one time or sitting, by gambling, or by betting on persons gambling, money or goods of the value of \$3 or more and of receiving or taking security therefor, forfeits to the town where the offense is committed double the value of the property so won and received.

63 Me. 11.

Sec. 5. Gambling on railroads or steamboats; penalty. R. S. c. 136, § 5. Whoever, upon any railroad-train or in any railroad-car, or upon any steamboat, gambles or bets upon any person gambling shall be punished by a fine of not less than \$100, or by imprisonment for not less than 3 months.

Sec. 6. Gamblers on railroads shall be arrested by the conductor. R. S. c. 136, § 6. Every conductor or other person having charge of a railroad-train is required to arrest or cause to be arrested all persons gambling on his train, and to detain them in his custody until a warrant can be procured from the proper authorities, and he may employ all necessary aids for such purpose.

Sec. 7. Copy of §§ 5 and 6 shall be posted in cars and on steamboats; penalty for refusal or neglect. R. S. c. 136, § 7. A copy of the 2 preceding sections shall be conspicuously posted in every car in which passengers are usually carried on any steam-railroad, and in every steamboat. Any railroad or steamboat company, or the proprietors of any steamboat, refusing or neglecting to comply with this requirement shall forfeit for each offense \$100, to be recovered by indictment in any county in which said railroad company runs trains or the steamboat company does business.

Sec. 8. Loser by gambling or betting may recover his loss; form of execution. R. S. c. 136, § 8. 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 an action on the case, brought within 3 months thereafter; and 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, one-half to his own use, and one-half to the town; and 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.

See c. 107, re relief of poor debtors; 18 Me. 339; 19 Me. 336; 21 Me. 28; 48 Me. 319; 63 Me. 11; 91 Me. 45; *110 Me. 303.

Sec. 9. Special rule of evidence, when the loser is plaintiff. R. S. c. 136, § 9. In any action, as provided in section 8, brought by the loser against the winner, the plaintiff may offer to make oath that such money or goods were lost by gambling with the defendant, and the court shall thereupon render judgment for the plaintiff for the amount thereof, unless the defendant will make oath that he did not obtain any part thereof by gambling, and, if he so discharges himself, he shall recover costs; or the plaintiff may prove his case in any other legal mode.

Sec. 10. Securities given for gambling debts are void. R. S. c. 136, § 10. All notes, bills, bonds, mortgages, securities, or conveyances, given in whole or in part for money or goods won by gambling or betting on persons gambling, or given to repay money lent or advanced for gambling or betting, or lent or

advanced at the time and place thereof, are utterly void against all persons, except bona fide subsequent purchasers of real estate, and holders of negotiable paper for a valuable consideration without notice.

Sec. 11. Sale of, offering for sale, or soliciting orders for punch boards, seal cards, slot gambling machines, and other gambling apparatus, prohibited; penalty; enforcement of law; jurisdiction of offenses. R. S. c. 136, § 11. 1933, c. 118, §§ 1, 5. 1941, c. 208, § 1; c. 313. 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. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, in all prosecutions for violation of this section.

Search for Implements of Gambling

Sec. 12. Search warrants for implements of gambling etc. R. S. c. 136, § 12. 1933, c. 118, § 1. 1941, c. 208, § 2. When a person makes oath before a trial justice or judge of a municipal 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, as aforesaid, and all the personal property, prizes, furniture, and 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.

See c. 77, re pari mutuel pool selling.

Sec. 13. Tools and implements for gambling, counterfeiting, and burglars' tools, forfeited. R. S. c. 136, § 13. 1941, c. 208, § 3. All tools, machines, dies, plates, or materials provided for making counterfeit or spurious coin, or for forging bank notes or other instruments; all burglars' tools or implements prepared or designed for burglary; all lottery tickets or materials for a lottery or procured for the purpose of a lottery; all gambling apparatus or implements for gambling, and all moneys therein contained, and prizes, furniture, and fixtures shall, when the same are found and taken by virtue of a search warrant, or are found in the possession or under the control of any person arrested for forgery, counterfeiting, burglary, selling lottery tickets, or gambling, be safely kept by the direction of the court or magistrate having cognizance of the case so long as may be necessary for their being used as evidence on any trial. All such articles, devices, tools, and materials, except prizes, furniture, and fixtures, shall thereupon be declared forfeited by said court, and ordered destroyed, and shall by order of the court rendering final judgment be turned over to the sheriff of the county where the seizure was made, or to such of his deputies as the court shall order, by any officer competent to serve the process on which they were seized, who shall forthwith make return accordingly to said court; and said sheriff, or his said deputy, shall receipt to said officer therefor. As soon thereafter as may be, said sheriff, or his said deputy, receiving said forfeited articles shall burn or otherwise destroy them, and make return to said court as to how he executed its order; provided, however, that all moneys, prizes, furniture, and fixtures so seized shall be declared forfeited to the county in which they were seized and turned over to an officer to be sold as provided in section 18, and in all cases where an officer may seize tools, machines, dies, plates, or materials provided for making counterfeit or spurious coin, or for forging bank notes or other instruments; burglars' tools or implements prepared or designed for burglary; lottery tickets or materials for a lottery or procured for the purpose of a lottery; gambling apparatus or implements for gambling and all moneys therein contained, prizes, furniture, and fixtures, upon a warrant, he may seize the same without a warrant and keep them in some safe place for a reasonable time until he can procure such warrant.

See c. 118, § 8, re definition of "burglary"; c. 120, § 8, re manufacture or possession of implements and materials for counterfeiting; 79 Me. 549; *95 Me. 518.

Bucket-shops

Sec. 14. "Bucket-shop" defined. R. S. c. 136, § 14. A "bucket-shop," within the meaning of this section and the 3 following sections, is defined to be an office, store, or other place wherein the proprietor or keeper thereof, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association, or copartnership, within or without the state, conducts the business of making, or offering to make contracts, agreements, trades, or transactions respecting the purchase or sale of any stocks, grain, provisions, or other commodity, or personal property, wherein both parties thereto, or said proprietor or keeper, contemplate or intend that such contracts, agreements, trades, or transactions shall be, or may be closed, adjusted, or settled according to or upon the basis of the public market quotations of prices made on any board of trade or

exchange, upon which the commodities or securities referred to in such contracts, agreements, trades, or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange; or wherein both parties, or such keeper or proprietor, shall contemplate or intend that such contracts, agreements, trades, or transactions shall be, or may be deemed closed or terminated when the public market quotations of prices made on such board of trade or exchange for the articles or securities named in such contracts, agreements, trades, or transactions shall reach a certain figure; and also any office, store, or other place where the keeper or proprietor thereof either in his or its own behalf, or as agent as aforesaid, therein makes or offers to make, with others, contracts, trades, or transactions for the purchase or sale of any such securities or commodities, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such securities or commodities, but do contemplate a settlement thereof based upon differences in the prices at which said securities or commodities are or are claimed to be bought and sold.

Sec. 15. Keeping of a bucket-shop prohibited; penalties. R. S. c. 136, § 15. No corporation, association, copartnership, or person shall keep, or cause to be kept, within the state any bucket-shop, as defined in the preceding section, or shall make or offer to make any such contract, agreement, trade, or transaction as is defined in said section; and any person, whether acting individually or as a member, officer, agent, or employee of any corporation, association, or copartnership, who shall keep or assist in the keeping of any bucket-shop within this state, or who shall make or offer to make any such prohibited contract, agreement, trade, or transaction, whether the offer is accepted or not, shall, upon conviction thereof, be punished for a 1st offense by a fine of not more than \$3,000, or by imprisonment until such fine is paid, but not for more than 11 months; and whoever shall be guilty of a 2nd offense under this section shall, upon conviction thereof, be punished by imprisonment for not less than 2 years, nor more than 5 years; if the offender is a corporation, it shall forfeit its charter. The continuing of the keeping of a bucket-shop by any person, corporation, association, or copartnership, after a first conviction therefor, shall be deemed a 2nd offense under this section.

Sec. 16. Persons communicating statement of quotations with view to transaction deemed accessories; penalty. R. S. c. 136, § 16. Any corporation, association, copartnership, or person who shall communicate, receive, exhibit, or display, in any manner, any statements of quotations of the prices of any property mentioned in section 14, with a view to any transaction prohibited in the 2 preceding sections, shall be deemed an accessory, and upon conviction thereof shall be subject to the same penalty as the principal, and as provided in the preceding section.

Sec. 17. Statement of transaction to be furnished, failure prima facie evidence of illegality. R. S. c. 136, § 17. Every commission merchant, copartnership, association, corporation, or broker shall furnish, upon demand, to any customer or principal for whom such commission merchant, broker, copartnership, corporation, or association has executed any order for the actual purchase or sale of any of the securities or commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom such property was bought, or to whom it was sold, as the case may be, the time when, the place where, and the price at which the same was either bought or sold; and in case such commission merchant, broker, copartnership, corporation, or association shall fail to furnish such statement within 24 hours

after such demand, the fact of such failure shall be prima facie evidence that the property was not sold or bought in a legitimate manner.

Lotteries

Sec. 18. Lotteries and schemes of chance of all kinds prohibited; penalty; printing of tickets prima facie evidence. R. S. c. 136, § 18. Every lottery, policy, policy lottery, policy shop, scheme, or device of chance, of whatever name or description, whether at fairs or public gatherings, or elsewhere, and whether in the interests of churches, benevolent objects, or otherwise, is prohibited; and whoever is concerned therein, directly or indirectly, by making, writing, printing, advertising, purchasing, receiving, selling, offering for sale, giving away, disposing of, or having in possession with intent to sell or dispose of, any ticket, certificate, share or interest therein, slip, bill, token, or other device purporting or designed to guarantee or assure to any person or to entitle any person to a chance of drawing or obtaining any prize or thing of value to be drawn in any lottery, policy, policy lottery, policy shop, scheme, or device of chance of whatever name or description; by printing, publishing, or circulating the same, or any handbill, advertisement, or notice thereof, or by knowingly suffering the same to be published in any newspaper or periodical under his charge, or on any cover or paper attached thereto; or who in any manner aids therein, or is connected therewith, shall be punished by a fine of not less than \$10, nor more than \$1,000, to be recovered by complaint or indictment to the use of the county, and he may further be punished by imprisonment for 30 days on the 1st conviction; 60 days on the 2nd conviction, and 90 days on the 3rd conviction. All lottery tickets, or materials for a lottery, procured for that purpose, shall be disposed of as provided in section 13, excepting that all personal property used for prizes in any such lottery or device of chance shall be ordered forfeited and turned over to an officer to be sold by him and the proceeds paid into the treasury of the county where seized. The printing, advertising, issuing, or delivery of any ticket, paper, document, or material representing or purporting to represent the existence of, or an interest in a lottery, policy lottery, game, or hazard shall be prima facie evidence of the existence, location, and drawing of such lottery, policy lottery, game, or hazard, and the issuing or delivery of any such paper, ticket, document, or material shall be prima facie evidence of value received therefor by the person or persons, company or corporation who issues or delivers or knowingly aids or abets in the issuing or delivering of such paper, ticket, document, or material.

7 Me. 502; 15 Me. 123; 78 Me. 73; *82 Me. 319; 85 Me. 238; 99 Me. 70, *488;
*117 Me. 102, 163; 131 Me. 285; 134 Me. 494.

Sec. 19. Attorney-general may have injunction to restrain any lottery. R. S. c. 136, § 19. 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 some justice of the supreme judicial court, or of the superior court, for an injunction to restrain such person from further proceedings therein; and if satisfied that there is sufficient ground therefor, such justice shall forthwith issue such injunction, and thereupon he shall order notice to be served on the adverse party to appear and answer to said complaint. Such justice, 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.

Sec. 20. Payments and securities for lotteries are void and may be recovered. R. S. c. 136, § 20. Payments, compensations, and securities of every description, made directly or indirectly, in whole or in part, for any such lottery or ticket, certificate, share, or interest therein, are received without consideration and against law and equity, and may be recovered.

82 Me. 319.

Beano

Sec. 21. Beano. 1943, c. 355, § 1. No person, firm, association, or corporation shall hold, conduct, or operate the amusement commonly known as "Beano" 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, inclusive, shall not be construed to apply to any other amusement or game.

Sec. 22. License. 1943, c. 355, § 2. Any person, firm, association, or corporation desiring to conduct such an amusement shall apply to the chief of the state police for a license subject to the provisions hereinafter set forth. The application shall be signed by the person, or a member of the firm, or an executive officer of the association or corporation to be licensed, and shall contain the full name and address of the person, firm, association, or corporation and the location where it is desired to conduct the amusement, and shall bear the consent of the municipal officers of the town or city in which it is proposed to operate such amusement.

Sec. 23. Issuance of licenses; fees. 1943, c. 355, § 3. 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 their application for a license, when sponsored, operated, and conducted for the exclusive benefit of such organization by duly authorized members thereof. 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.

Sec. 24. Supervision. 1943, c. 355, § 4. The chief of the state police shall make such rules and regulations for the holding, conducting, and operating of such amusements as he may deem advisable for the purpose of sections 21 to 27, inclusive; and shall have the power and authority to regulate, supervise, and exercise general control over the operation of such amusements; and to investigate as to the direct or indirect ownership and control of any licensee; and to revoke or suspend any license because of licensee permitting nuisances, improper conduct, abuse of privileges, or for other cause shown upon reasonable notice or hearing.

Sec. 25. Expenses of administration. 1943, c. 355, § 5. The necessary expenses of administering the provisions of sections 21 to 27, inclusive, shall be paid out of the fees received under the provisions of said sections.

Sec. 26. Effect of other laws. 1943, c. 355, § 6. All acts and parts of acts inconsistent herewith shall be inoperative as to sections 21 to 27, inclusive, 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".

See c. 27, §§ 15-31, re county and local agricultural societies.

Sec. 27. Penalties. 1943, c. 355, § 7. Any person, firm, association, or corporation holding or conducting, or aiding or abetting in the holding or conducting of such amusement within the state without a license therefor duly issued by the chief of the state police, or any person, firm, association, or corporation who violates any of the provisions of sections 21 to 27, inclusive, or any of the rules or regulations of the chief of the state police prescribed by authority of said sections shall be punished by a fine of not more than \$1,000.

CHAPTER 127.

CRUELTY TO ANIMALS.

Sec. 1. Maliciously killing or injuring domestic animals; larceny of; penalty. R. S. c. 139, § 1. Whoever wilfully 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 be punished by a fine of not less than \$20, nor more than \$500, or by imprisonment for not more than 4 years.

See c. 62, § 16, re killing animals by poisons; *75 Me. 563.

Sec. 2. Cruelty to animals; penalty. R. S. c. 135, § 49. Every person who cruelly overdrives, overloads, or overworks, who torments, tortures, maims, wounds, or deprives of necessary sustenance, or who cruelly beats, mutilates, or kills any horse or other animal, or causes the same to be done, or having the charge or custody thereof, as owner or otherwise, unnecessarily fails to provide such animal with proper food, drink, shelter, and protection from the weather; every person, owning or having the charge or custody of any animal, who knowingly and wilfully authorizes or permits the same to suffer tortures or cruelty; and every owner, driver, possessor, or person having the custody of an old, maimed, disabled, or diseased animal, who cruelly works the same when unfit for labor, or who cruelly abandons such animal; and every person who carries or causes to be carried, or has the care of, in or upon a car or other vehicle or otherwise, any animal in a cruel or inhuman manner shall for every such offense be punished by a fine of not less than \$5, nor more than \$200, or by imprisonment for not more than 11 months.

76 Me. 400; 86 Me. 195; 114 Me. 457; *126 Me. 115.

Sec. 3. Shooting of pigeons and other birds for amusement; penalty; not applicable to wild game. R. S. c. 135, § 50. Whoever keeps or uses any live