

REVISED LAWS OF MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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from and after its passage; provided, that the provision of this act shall not apply to offenses committed before this act takes effect, and as to all such offenses the law in force at the time they were committed shall continue and remain in force the same as if this act had not been passed."

5160. Exposure of animals—Duty of officers.—Any sheriff, constable, village marshal, police officer or any agent of the Minnesota or other societies for the prevention of cruelty, may remove, shelter, and care for any horse or other animal found exposed to the weather and not properly blanketed, or remaining more than one hour without attention in cold or inclement weather, or not properly fed and watered, or provided with suitable food and drink, and when necessary, may deliver such animal to another person to be so sheltered and cared for, and furnished with suitable food and drink; but in all cases the owner, if known, shall be immediately notified, and such officer, or the person having possession of the animal, shall have a lien thereon for its care and keeping and the reasonable value of the food and drink furnished and the expenses of such notice. If the owner or custodian be unknown, and cannot by reasonable effort be ascertained, or shall not, within five days after notice redeem such animal by paying the expenses incurred as aforesaid, it may be treated as an estray, and be dealt with as such. (R. L. § 5160, as amended by Laws 1907, c. 398, § 1.)

CHAPTER 103.

MISCELLANEOUS CRIMES.

5161. Drunkenness—Successive offenses—Suspension of sentence.—Every person who becomes intoxicated by voluntarily drinking intoxicating liquors shall be guilty of the crime of drunkenness, and punished as follows: For a first offense, by imprisonment in the county jail for not more than forty days, or by a fine of not more than forty dollars; for the second offense, by imprisonment for not more than sixty days or by a fine of not more than sixty dollars; for the third and all subsequent offenses, by imprisonment for not less than sixty days nor more than three months; provided, that the court may in its discretion, after conviction, for the first or second offense suspend sentence during the good behavior of the accused, but if he shall again transgress within a period of six months thereafter, he shall again be brought before the court and shall be punished by a term of imprisonment as provided for in this section. (R. L. § 5161, as amended by Laws 1907, c. 208, § 1.)

5163. Adulterated cigarettes.

See sections [5163—] 1, [5163—] 2.

[5163—]1. Same.—Any person within the state who manufactures, sells or gives to any one, or uses any cigarette containing any substance foreign to tobacco, shall be punished by a fine of not more than fifty dollars or imprisonment in a county jail for not more than thirty days. ('07 c. 386 § 1)

For other sections of this act see sections [4938—] 1 to [4938—] 4.

[5163—]2. Manufacture, sale, etc., of cigarettes, cigarette paper, etc., prohibited.—That it shall be unlawful for any person by himself, clerk, servant, employee, or agent, directly or indirectly upon any pretense or by any device to manufacture, sell, exchange, barter, dispose of or give away, or keep for sale any cigarettes, cigarette paper or cigarette wrappers, or any paper made or prepared for the purpose of being filled with tobacco for smoking and any person violating the provisions of this act shall be guilty of a

misdemeanor; provided, that the provisions hereof shall not apply to the sales of jobbers doing an interstate business with customers outside of the state. ('09 c. 194 § 1)

Historical.—"An act making it a misdemeanor to manufacture, sell, barter, exchange or give away any cigarettes or cigarette paper." Approved April 14, 1909.

By section 2 the act took effect August 1, 1909.

5164. Frauds on innkeepers.

See section [5164—] 1.

[5164—]1. **Same.**—A person who obtains any food or accommodation at any inn, hotel, lodging house or boarding house, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at any inn, hotel, lodging house or boarding house, by or through any false pretense, or who after obtaining credit and accommodation at an inn, hotel, lodging house or boarding house, absconds and surreptitiously removes his baggage therefrom without paying for his food and accommodation is guilty of a misdemeanor, and the proprietor or manager of any such inn, hotel, boarding or lodging house, shall have a lien on any baggage or effects of any such person, in his possession for the amount due and unpaid for food or lodging so fraudulently obtained. (G. S. 1894, § 7999, as amended by Laws 1905, c. 325, § 1.)

Historical.—"An act to amend section 7999, General Statutes of 1894, relating to the protection of keepers of lodging houses, boarding houses and inns, and providing for a penalty for defrauding them." Approved April 19, 1905.

Section 2 repeals inconsistent acts.

G. S. 1894, § 7999, was Laws 1874, c. 52, § 3, as amended by Laws 1875, c. 111, § 1. Said acts were repealed by R. L. §§ 5227, 5228. So far as Laws 1905, c. 325, differs from the Revised Laws, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

5168. Trusts and combinations.

In general.—A combination, contract, or understanding, the direct and necessary effect of which is to stifle or restrict competition in trade or business, violates the anti-trust statute, irrespective of the intention of the parties. Certain combinations and agreements held not in violation of the statute. *State v. Duluth Board of Trade*, 107 Minn. 506, 121 N. W. 395.

[5169—]1. **Petroleum—Discrimination between different localities prohibited.**—Any person, firm, company, association, or corporation, foreign or domestic, doing business in the State of Minnesota and engaged in the production, manufacture, or distribution of petroleum or any of its products that shall intentionally, or otherwise, for the purpose of destroying the business of a competitor or creating a monopoly in any locality, discriminate between different sections, communities or cities of this state, by selling such commodity at a lower rate in one section, community, or city than is charged for such commodity by said party in another section, community, or city after making due allowance for the difference, if any, in the test or quality and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. ('07 c. 269 § 1)

Historical.—"An act to prohibit unfair discrimination between different sections, communities, or localities, unfair competition, and providing penalties therefor." Approved April 20, 1907.

[5169—]2. **Same—Penalty.**—Any person, firm, company, association, or corporation, violating any of the provisions of the preceding section, and any officer, agent or receiver of any firm, company, association, or corporation, or any member of the same, or any individual found guilty of violation thereof, shall be guilty of a gross misdemeanor and shall be fined not more than five thou-

sand dollars, or be imprisoned in the county jail not to exceed one year, or both. ('07 c. 269 § 2)

[5169—]3. **Same—Contracts void—Recovery.**—All contracts or agreements made in violation of any provisions of the two preceding sections shall be void and any money or property paid or transferred for any such commodity under any such agreement shall be paid back within ten days after demand therefor, and on failure to so repay, then the purchasers may recover back in a civil action any such money or property, together with reasonable attorneys' fees not less than twenty-five dollars. ('07 c. 269 § 3)

[5169—]4. **Same—Duty of county attorney.**—It shall be the duty of the county attorneys in their counties and the attorney general, to enforce the provisions of the preceding sections of this act by appropriate actions in courts of competent jurisdictions. ('07 c. 269 § 4)

[5169—]5. **Same—Duty of secretary of state.**—If complaint shall be made to the secretary of state that any corporation authorized to do business in this state is guilty of unfair discrimination, within the terms of this act, it shall be the duty of the secretary of state to refer the matter to the attorney general, who may, if the facts justify it in his judgment, institute proceedings in the courts against such corporation. ('07 c. 269 § 5)

[5169—]6. **Same—Revocation of permit.**—If any corporation, foreign or domestic, authorized to do business in this state, is found guilty of unfair discrimination, within the terms of this act, it shall be the duty of the secretary of state to immediately revoke the permit of such corporation to do business in this state. ('07 c. 269 § 6)

[5169—]7. **Same—Continuance in business—Ouster.**—If after the revocation of its permit, such corporation or any other corporation (not having a permit and found guilty of having violated any of the provisions of this act), shall continue or attempt to do business in this state, it shall be the duty of the attorney general, by a proper suit in the name of the State of Minnesota, to oust such corporation from all business of every kind and character in said State of Minnesota. ('07 c. 269 § 7)

[5169—]8. **Same—Remedies cumulative.**—Nothing in this act shall be construed as repealing any other act, or part of an act, but the remedies herein provided shall be cumulative to all other remedies by law. ('07 c. 269 § 8)

[5169—]9. **Milk, etc.—Discrimination between different localities prohibited.**—Any person, firm, co-partnership or corporation engaged in the business of buying milk, cream or butterfat for the purpose of manufacture who shall, with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, communities or cities of this state by purchasing such commodity at a higher price or rate in one locality than is paid for the same commodity by said person, firm, co-partnership or corporation in another locality after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture shall be deemed guilty of unfair discrimination and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not to exceed six months. ('09 c. 468 § 1)

Historical.—"An act to prevent unlawful discrimination in the sale of milk; cream, butter-fat and to provide a punishment for the same." Approved April 23, 1909.

[5170—]1. **Bucket shop defined—Crime, when complete—Intention of act.**—A bucket shop, within the meaning of this act, 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, or purchase and sale, of any stocks, grain, provisions, or other commodity, or personal property, wherein both parties thereto, or said proprietor or keeper, contemplates or intends that such contracts, agreement, 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 said 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 quotation of prices made on such board of trade or exchange, for the articles or securities named in said 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 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 commodity, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such property, but do contemplate a settlement thereof based upon differences in the prices at which said property is, or is claimed to be bought and sold. The said crime shall be complete against any proprietor or keeper thus offering to make any such contracts, trades or transactions, whether such offer is accepted or not. It is the intention of this act to prevent, punish and prohibit, within this state, the business now engaged in and conducted in places commonly known and designated as "bucket shops," by persons, corporations, associations or copartnerships, who or which ostensibly carry on the business or occupation of commission merchants or brokers in grain, provisions, petroleum or stocks and bonds. ('05 c. 133 § 1)

Historical.—"An act to prohibit bucket shops and bucket shopping within this state." Approved April 11, 1905.

[5170—]2. Same—Bucket shop prohibited—Penalties.—It shall be unlawful for any corporation, association, copartnership or person to keep or cause to be kept, within this state, any bucket shop; and any corporation or person, whether acting individually or as a member, or as an officer, agent or employé of any corporation, association, or copartnership, who shall keep, or assist in the keeping of any bucket shop within this state, shall, upon conviction thereof, be fined in a sum not less than five hundred dollars and not more than two thousand dollars, and be imprisoned in the county jail until such fine is paid, not exceeding one year; and any person or persons who shall be guilty of a second offense under this statute, in addition to the penalty above prescribed, shall, upon conviction, be imprisoned in the county jail for a period of not less than thirty days, and not more than ninety days, and if a corporation, shall be liable to forfeiture, of its charter; and the continuance of such establishment after the first offense, shall be deemed a second offense. ('05 c. 133 § 2)

[5170—]3. Same—Accessories.—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 one [5170—1] hereof,

with a view to any transaction in this act prohibited, shall be deemed an accessory, and upon conviction thereof shall be fined and punished the same as the principal, and as provided in section two [5170—2] of this act. ('05 c. 133 § 3)

[5170—]4. Same—Duty of commission merchants and brokers—Statement—Evidence.—It shall be the duty of every commission merchant, copartnership, association, corporation or broker, doing business as such, to furnish to every 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 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 shall have been 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 fails to properly furnish such statement, the fact of such failure shall be prima facie evidence that such property was not sold or bought in a legitimate manner. ('05 c. 133 § 4)

[5170—]5. Gift enterprises prohibited.—All gift enterprises, as hereinafter defined, and all trade practices carried on in connection therewith are hereby prohibited and declared to be unlawful. ('09 c. 142 § 1)

Historical.—"An act to define gift enterprises and to provide a penalty for carrying on the same." Approved April 5, 1909.

[5170—]6. Same—Gift enterprises defined.—Whenever two or more persons enter into any contract, arrangement or scheme, whereby for the purpose of inducing the public to purchase merchandise or other property of one of the parties to said scheme, any other party thereto, for a valuable consideration and as a part of such scheme, advertises and induces or attempts to induce the public to believe that he will give gifts, premiums or prizes to persons purchasing such merchandise or other property of such other party to said scheme, and that stamps or tickets will be given by the seller in connection with such sales entitling the purchaser of such property to receive such prizes or gifts from any other party to such scheme, the parties so undertaking and carrying out such scheme shall be deemed to be engaged in a "gift enterprise," unless the articles or things so promised to be given as gifts or premiums with or on account of such purchases, shall be definitely described on such stamp or ticket and the character and value of such promised prize or gift fully made known to the purchaser of such merchandise or other property at the time of the sale thereof, and unless the right of the holder of such stamp or ticket to the gift or premium so promised, becomes absolute upon the completion upon the delivery thereof without the holder being required to collect any specified number of other similar stamps or tickets and to present them for redemption together, and the right of the holder of such stamp or ticket to the prize or gift so offered is absolute, and does not depend on any chance uncertainty or contingency whatever. ('09 c. 142 § 2)

[5170—]7. Same—Engaging in gift enterprise, etc.—Penalty.—Any person who engages in a gift enterprise such as is defined in this act or who advertises the same in any manner, or who in furtherance of such scheme, as an inducement to purchasers issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite

article not described thereon, only when presented with a collection of other stamps or tickets of like kind, by some other party to such scheme, and which, unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a misdemeanor. ('09 c. 142 § 3)

[5170—]8. Same—"Person" defined.—The word "person" as used in this act, may in proper cases in order to make the intent and meaning of the law effective, be construed to mean firm or corporation. ('09 c. 142 § 4)

[5180—]1. Desecration of Memorial Day.—That the desecration of "Memorial Day," the thirtieth (30th) day of May of each year, by the playing of games of ball, cricket, football, and other like games, or by horse racing, bicycle racing, automobile racing, or any other sports calculated to attract attention to such games or sports and away from the memorial character of said day, within one-half mile of the place where memorial exercises are in progress, is hereby prohibited and made unlawful during the hours from 10 o'clock in the forenoon to 3 o'clock in the afternoon of said day, and all saloons and other places where intoxicating liquors are sold, shall be closed on said day between the hours of 10 o'clock in the forenoon and 3 o'clock in the afternoon, in all cities, villages and towns where memorial exercises are held. ('07 c. 25 § 1)

Historical.—"An act to prohibit the desecration of Memorial Day, and provide for punishment thereof." Approved March 1, 1907.

[5180—]2. Same—Penalty.—Any person guilty of a violation of section 1 [5180—1] of this act shall be deemed guilty of a misdemeanor, and punishable accordingly. ('07 c. 25 § 2)

5189. Fumigating grain to change color—Penalty.—Any person who shall sell or offer for sale, or for shipment and sale, any barley or other grain, which shall have been subjected to fumigation, or other treatment by sulphur or other material, or to any other chemical process, affecting the color thereof, shall be guilty of a felony, and punished by a fine of not more than five hundred dollars; or by imprisonment in the state prison for not more than one year, or by both such fine and imprisonment; and shall also be liable to any person injured in treble damages; provided, that barley and oats may be purified by fumigation, or treatment with sulphur, under such restrictions, rules and regulations as the railroad and warehouse commission shall prescribe for such purpose, and when so purified may be sold and marketed as "Purified Barley" or as "Purified Oats," and not otherwise. (R. L. § 5189, as amended by Laws 1907, c. 213, § 1.)

[5195—]1. "Vagrants" defined—How punished.—The following persons are vagrants:

1. A person, who, being an habitual drunkard, abandons, neglects or refuses to aid in the support of his family.

2. A person who has contracted an infectious or other disease in the practice of drunkenness or debauchery, requiring charitable aid to restore him to health.

3. Every male person who lives wholly or in part on the earnings of prostitution, or who in any public place solicits for immoral purposes. A male person who lives with or is habitually in the company of a prostitute and has no visible means of support, shall be deemed to be living on the earnings of prostitution.

4. A common prostitute who shall be found wandering about the streets, or loitering in or about any restaurant, lodging house, saloon, or place where intoxicating liquors are sold.

5. Every female who shall be found wandering about the streets

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and addressing male persons for the purpose of soliciting the commission of any lewd, indecent or unlawful act, or for the purpose of enticing any male person into a house of prostitution or assignation, bedhouse, room, or other place for any unlawful purpose.

6. Fortune tellers, and such other like imposters.

7. A person known to be a pickpocket, thief, burglar, "yeggman" or "confidence man," and having no visible or lawful means of support, when found loitering around any steamboat landing, railroad depot, railroad yard, banking institution, broker's office, place of public amusement, hotel, auction room, store, shop, or crowded thoroughfare, car or omnibus, or at any public gathering or assembly. Provided, however, that this act shall not apply to any such person, unless he has been convicted of the offense which would make him known as such person, and shall not apply to any person who has been in prison for such offense, who, after being released from such imprisonment has been engaged in lawful employment, and shall not in any case apply to any such person until more than thirty days have elapsed since being released from such imprisonment.

8. A person engaged in practicing or attempting any trick or device to procure money or other thing of value, if such trick or device is made a public offense by any law of this state.

Every such person shall upon conviction thereof be punished by imprisonment not exceeding ninety days, or by a fine not exceeding one hundred dollars. ('09 c. 487 § 1)

Historical.—"An act defining who are vagrants and providing for their punishment." Approved April 24, 1909.

CHAPTER 104.

CRIMINAL PROCEDURE.

EXTRADITION.

5201. Warrant of extradition, service, etc.

Requisition papers.—It will be implied from the authentication by the Governor of the demanding state that the officer certifying to the jurat of the affidavit was a magistrate, as represented therein. The venue of the offense and of the affidavit were properly stated therein, and the affidavit charged the commission of a crime with sufficient definiteness. The warrant and requisition papers upon which it was based, and which were part of the return, were sufficient, although the warrant recited that relator was charged upon complaint with the crime of forgery. *State ex rel. Grande v. Bates*, 101 Minn. 303, 112 N. W. 260.

EXAMINATION OF OFFENDERS—COMMITMENT—BAIL.

5251. Certifying testimony.

See section [5251—] 1.

[5251—]1. **Same.**—All examinations and recognizances, taken by any magistrate in pursuance of the provisions of this chapter, shall be certified and returned by him to the clerk of the court, before which the party charged is bound to appear, within ten days after such examination has been had or said recognizance tak-