

130278

1941 Supplement

To

Mason's Minnesota Statutes

1927

1939 to 1941

(Supplementing Mason's 1940 Supplement)

Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

Edited by
the
Publisher's
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St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

LOTTERIES

10209. Defined—A nuisance—Drawing, etc.

A filling station giving a ticket with every 50 cent purchase and awarding a prize of five gallons of gasoline each week by chance is conducting a lottery. Op. Atty. Gen., (510c-9), March 20, 1940.

A punch board constitutes a lottery notwithstanding fact that player always receives something for his money. Op. Atty. Gen. (510c-4), Dec. 11, 1940.

GAMING

10219. Swindling by cards, etc.

Maximum sentence for attempted swindling is 2½ years and minimum sentence is nothing in view of indeterminate sentence law. Op. Atty. Gen. (341k-5), July 10, 1940.

1. What constitutes.

Crime of swindling may be committed by means of a trick or scheme consisting of mere words and actions without use of a mechanical device. State v. Yurkiewicz, 292NW782. See Dun. Dig. 3740.

Fact that transaction took form of a legitimate contract and business deal does not prevent acts from constituting a swindle. Id.

2. Indictment.

An indictment for swindling may contain allegations that crime was committed by fraudulent representations of facts relating both to present or past and to future. State v. Yurkiewicz, 292NW782. See Dun. Dig. 3741.

SABBATH BREAKING, ETC.

10235. Things prohibited—Exceptions.—All horse racing, except horse racing at the annual fairs held by the various county agricultural societies of the state, gaming and shows; all noises disturbing the

peace of the day; all trades, manufacturers, and mechanical employments, except works of necessity performed in an orderly manner so as not to interfere with the repose and religious liberty of the community; all public selling or offering for sale of property, and all other labor except works of necessity and charity are prohibited on the Sabbath day:

Provided, that meals to be served upon the premises or elsewhere by caterers, prepared tobacco in places other than where intoxicating liquors are kept for sale, fruits, confectionery, newspapers, drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner. In works of necessity or charity is included whatever is needful during the day for good order, health or comfort of the community, including the usual shoe shining service; but keeping open a barber shop or shaving and hair cutting shall not be deemed works of necessity or charity, and nothing in this section shall be construed to permit the selling of uncooked meats, groceries, clothing, boots, or shoes. Provided, however, that the game of baseball when conducted in a quiet and orderly manner so as not to interfere with the peace, repose and comfort of the community, may be played on the Sabbath day. (As amended Apr. 21, 1941, c. 336, §1.)

Section is not violated by bowling on Sunday. Op. Atty. Gen., (384d), Jan. 15, 1940.

Word "gaming" does not apply to playing of pool and billiards. Op. Atty. Gen., (384), Feb. 2, 1940.

Section is not violated by playing pool or billiards or bowling on Sabbath day. Op. Atty. Gen. (384a), Nov. 16, 1940.

CHAPTER 99

Crimes Against Public Health and Safety

10241. Public nuisance defined.

Fee of an abutting property owner extends to center of street or highway subject only to public easement for public use, and he may use his property for a purpose compatible with free use by public, public authorities determining how much shall be reserved for such use. Kooreny v. D., 291NW611. See Dun. Dig. 4182.

County attorney can bring an action in the name of the state to abate an unlicensed drinking place as a public nuisance under this section. Op. Atty. Gen., (133B-40), Sept. 6, 1939.

"Green River Ordinance", making it a nuisance for peddler or solicitor to call at private residences without an invitation, may or may not be valid. Op. Atty. Gen., (59a-32), Dec. 22, 1939.

Sale of 3.2 beer without a license may be restrained by injunction as a nuisance. Op. Atty. Gen. (218f-3), May 28, 1940.

Where there are obstructions on a 4-rod township road established pursuant to §2590, county attorney may prosecute under §§2615 or 10419, but it may be more effective to bring injunction under §10241, in which action land owner may be restrained from interfering with township, or its agents, who are to widen the road. Op. Atty. Gen. (377a-5), Aug. 14, 1940.

Where a club is selling liquor to its members without a license, injunction proceedings may be had against it as a nuisance. Op. Atty. Gen., (218g-15), Feb. 17, 1941.

10249. Gasoline, benzine and kerosene cans. [Repealed.]

Repealed. Laws 1941, c. 495.

10255. Deadly weapons.

There is no provision in law providing for a permit to be issued to an individual for purpose of carrying a pistol or revolver, and any informal permit obtained from local

sheriff or chief of police has no legal effect other than to aid in overcoming presumption created by this statute. Op. Atty. Gen., (201a-2), Oct. 16, 1939.

Section does not prohibit a person from carrying a concealed weapon, but places upon him burden of proving that he is carrying it for a lawful purpose. Id.

Statute does not prohibit carrying a concealed weapon, but places upon person burden of proving that he is carrying it for a lawful purpose. Op. Atty. Gen., (201a-2), Feb. 15, 1940.

10258. Blank cartridge firearms, certain firecrackers; etc., prohibited.

Sale or use of fireworks, except for supervised public displays, is unlawful. Laws 1941, c. 125.

No person shall manufacture, possess, or deal in explosives without a license. Laws 1941, c. 474.

10263. Failure to ring bell, etc.

Violation of this section could not have been a contributory proximate cause of injury to a passenger who ran into 19th car of train at crossing. Krause v. C., 290 NW294. See Dun. Dig. 8197.

Testimony of a passenger in a crowded Ford that he did not hear crossing whistle sounded or locomotive bell rung, it not appearing that such passenger was listening for sounds, or that windows of Ford were open, or that he heard rumbling of freight train running at 25 miles an hour at any moment prior to Ford's collision with 19th car from front, is of no probative value as against positive testimony of several witnesses in a position to know that whistle was sounded and bell rung. Id. See Dun. Dig. 8175.

Slight negative testimony did not overcome the positive affirmative testimony that requisite train signals by bell or whistle were sounded. Engberg v. G., 290NW579. See Dun. Dig. 8175.

CHAPTER 100

Crimes Against The Public Peace

10279. Disturbing meetings—disorderly conduct.

Conviction of disorderly conduct was sustained by evidence of indecent exposure. State v. Mitchell, 290NW222. See Dun. Dig. 2751.