

MINNESOTA STATUTES 1941

3679

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.01

CHAPTER 617

OFFENSES AGAINST CHASTITY, MORALS, AND DECENCY

Sec.		Sec.	
	RAPE; ABDUCTION; CARNAL KNOWLEDGE, AND SIMILAR OFFENSES	617.38	Duty of county attorney
617.01	Rape; penalty	617.39	Intervention by owner
617.02	Carnal knowledge of children	617.40	Permanent injunction; penalty and lien
617.03	Physical ability of offender	617.41	Owners and agents; parties to action
617.04	Compelling woman to marry		DANCE HALLS
617.05	Abduction; evidence; penalty	617.42	Dance hall
617.06	Enticement into state for prostitution; penalty	617.43	Proprietors must obtain permits
617.07	Seduction under promise; evidence; bar to prosecution	617.44	Issuance of permit
617.08	Indecent assault	617.45	Permit to be posted
617.09	Soliciting boy under 18 to house of ill-fame	617.46	Applications
617.10	Admitting or cohabiting	617.47	Immodest dances prohibited
	BIGAMY, ADULTERY, FORNICATION, INCEST, SODOMY	617.48	Lights
617.11	Bigamy; punishment; exceptions	617.49	Not to admit certain persons
617.12	Punishment of consort	617.50	Officer must attend all public dances
617.13	Incest	617.51	Hours
617.14	Sodomy	617.52	Disposition of fees
617.15	Adultery	617.53	Revocation of permit
617.16	Fornication	617.54	Violation a misdemeanor
617.17	Absconding by father to evade proceedings establishing paternity		CRIMES RELATING TO CHILDREN
	ABORTION	617.55	Desertion of child or pregnant wife
617.18	Abortion, how punished	617.56	Failure to support wife or child
617.19	Pregnant woman attempting abortion	617.57	Prosecution
617.20	Drugs to produce miscarriage	617.58	Proof of relationship
617.21	Evidence	617.59	Endangering life, health, or morals of minors
617.22	Concealing birth; second offense	617.60	Keepers of public places to exclude minors
	OBSCENITY	617.61	Minors; gaming by prohibited, where; how punished
617.23	Indecent exposure; penalties	617.62	Restrictions on minors in places of amusement
517.24	Obscene literature; penalty	617.63	Keepers of public places to exclude; penalty
617.25	Indecent articles and information	617.64	Use of tobacco by minors
617.26	Mailing and carrying obscene matter	617.65	Minors; sale of tobacco to
617.27	Search warrant; destruction of property	617.66	Use of tobacco in public place; arrest; penalty; evidence
617.28	Certain medical advertisements	617.67	Harboring
	Subd.	617.68	Powers of grand jury
	1. Placing advertisement; penalty	617.69	Liquors in schoolhouses or grounds
	2. Publication; penalty	617.70	Sale of liquor within one mile of certain institutions
617.29	Evidence	617.71	Sale of liquor or cigarettes within 1,000 feet of certain institutions
	PROSTITUTION AND HOUSES OF ILL-FAME	617.715	Peddling and canvassing prohibited on school grounds; penalty
617.30	Keeper of disorderly resort	617.72	Distribution of crime literature among minors
617.31	Detention for debt, in house of ill-fame		Subd.
	Subd.		1. Prohibited
	1. Prohibited		2. Penalty
	2. Penalty	617.73	Cruelty to children
617.32	Receiving earnings of prostitute	617.74	Unlawful confinement of feeble-minded persons; penalty
	Subd.	617.75	Habitual offenders in certain cases
	1. Prohibited		Subd.
	2. Penalty		1. Habitual offenders
617.33	Houses of prostitution; nuisances; abatement		2. Penalty
617.34	Action to enjoin; restraining order; answer		3. Evidence
617.35	Trial; limitation or dismissal		4. Prisoners subject to parole
617.36	Contempts		5. Examination as to disease
617.37	Order of abatement; personal property; contempt; fees		

RAPE; ABDUCTION; CARNAL KNOWLEDGE, AND SIMILAR OFFENSES

617.01 RAPE; PENALTY. Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent; every person who shall perpetrate such an act of sexual intercourse with a female of ten years or upwards, not his wife:

(1) When, through idocy, imbecility, or any unsoundness of mind, either temporary or permanent she is incapable of giving consent;

(2) When her resistance is forcibly overcome;

(3) When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her;

(4) When her resistance is prevented by stupor or by weakness of mind produced by an intoxicating, narcotic, or anaesthetic agent administered by or with the privity of the defendant; or

(5) When she is at the time unconscious of the nature of the act, and this is known to the defendant—

Shall be punished by imprisonment in the state prison for not less than seven, nor more than 30, years.

[R. L. s. 4926] (10124)

617.02 CARNAL KNOWLEDGE OF CHILDREN. Every person who shall carnally know and abuse any female child under the age of 18 years shall be punished as follows:

(1) When such child is under the age of ten years, by imprisonment in the state prison for life;

(2) When such child is ten, and under the age of 14, years, by imprisonment in the state prison for not less than seven, nor more than 30, years;

(3) When such child is 14, and under the age of 18, years, by imprisonment in the state prison for not more than seven years, or by imprisonment in the county jail for not more than one year.

[R. L. s. 4927; 1909 c. 92 s. 1] (10125)

617.03 PHYSICAL ABILITY OF OFFENDER. No conviction for rape shall be had against one under the age of 14 years at the time of the alleged act, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt. In all cases of rape any sexual penetration, however slight, is sufficient to complete the crime.

[R. L. s. 4928] (10126)

617.04 COMPELLING WOMAN TO MARRY. Every person who, by force, menace, or duress, shall compel a woman against her will to marry him, or to marry any other person, or to be defiled, shall be punished by imprisonment in the state prison for not less than three, nor more than 30, years, or by a fine of not more than \$1,000, or by both.

[R. L. s. 4929] (10127)

617.05 ABDUCTION; EVIDENCE; PENALTY. Every person who

(1) Shall take a female under the age of 18 years, for the purpose of prostitution or sexual intercourse, or, without the consent of her father, mother, guardian, or other person having legal charge of her person, for the purpose of marriage;

(2) Shall inveigle or entice an unmarried female under the age of 25 years, of previous chaste character, into a house of ill-fame or assignation, or elsewhere for the purpose of prostitution or sexual intercourse;

(3) Shall take or detain a woman unlawfully against her will, with intent to compel her by force, menace, or duress, to marry him or any other person, or to be defiled; or,

(4) Being parent, guardian, or other person having legal charge of the person of a female under the age of 18 years, shall consent to her taking or detention by any person for the purpose of prostitution or sexual intercourse—

Shall be guilty of abduction and punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$1,000, or by both. No conviction shall be had for abduction or compulsory marriage upon the unsupported testimony of the female abducted or compelled.

[R. L. s. 4930; 1909 c. 92 s. 2] (10128)

617.06 ENTICEMENT INTO STATE FOR PROSTITUTION; PENALTY. It shall be unlawful for any person to induce, entice, or procure, or attempt to induce, entice, or procure to come into this state, any female person for the purpose of prostitution or concubinage, or for any other immoral purpose, or to induce, entice, or procure any female person in this state to enter any house of ill-fame, assignation, or prostitution.

Any person who violates the provisions of this section shall, upon conviction thereof, be punished by imprisonment in the state prison for a period of not more than ten years.

[1909 c. 404 ss. 1, 2; 1911 c. 202 s. 1] (10129) (10130)

617.07 SEDUCTION UNDER PROMISE; EVIDENCE; BAR TO PROSECUTION. Every person who, under promise of marriage, shall seduce and have sexual intercourse with an unmarried female of previous chaste character, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$1,000, or by both. No conviction shall be had for the offense specified herein upon the unsupported testimony of the female seduced. The subsequent intermarriage of the parties, or the lapse of two years after the

MINNESOTA STATUTES 1941

3681

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.13

commission of the offense before the finding of the indictment, shall be a bar to a prosecution for a violation of this section.

[R. L. s. 4931] (10131)

617.08 INDECENT ASSAULT. Every person who shall take any indecent liberties with or on the person of any female, not a public prostitute, without her consent expressly given, and which acts do not in law amount to rape, an attempt to commit a rape, or an assault with intent to commit a rape, and every person who shall take such indecent liberties with or on the person of any female under the age of 16 years, and every person who shall take any indecent liberties with or on the person of any male under the age of 16 years, without regard to whether he or she shall consent to the same or not, or who shall persuade or induce any male or female under the age of 16 years to perform any indecent act upon his or her own body or the body of another, shall be guilty of a felony.

[R. L. s. 4932; 1927 c. 394; 1929 c. 27] (10132)

617.09 SOLICITING BOY UNDER 18 TO HOUSE OF ILL-FAME. Any person who shall solicit any boy under the age of 18 years to visit a house of ill-fame or assignation for the purpose of prostitution or sexual intercourse, or shall direct or accompany such boy to any such house of ill-fame or assignation for such purpose, or shall arrange or assist in arranging any meeting for such purpose between any boy under the age of 18 years and any female of dissolute character or any inmate of any house of ill-fame or assignation, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment for not less than six months, nor more than five years.

[1907 c. 320 s. 1] (10133)

617.10 ADMITTING OR COHABITING. Any keeper of any house of ill-fame or assignation who shall for any unlawful purpose admit to such house any boy under the age of 18 years, or any female inmate of any such house of ill-fame or assignation who shall cohabit with any boy under the age of 18 years, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment for not less than 18 months, nor more than seven years.

[1907 c. 320 s. 2] (10134)

BIGAMY, ADULTERY, FORNICATION, INCEST, SODOMY

617.11 BIGAMY; PUNISHMENT; EXCEPTIONS. Every person who, having a husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall be guilty of bigamy, and be punished by imprisonment in the state prison for not more than five years; provided, that this section shall not extend—

(1) To a person whose former husband or wife has been absent for five years successively then last past, without being known to him or her to be living, and believed to be dead; or

(2) To a person whose former marriage has been pronounced void, or annulled or dissolved, by a court of competent jurisdiction.

[R. L. s. 4947] (10180)

617.12 PUNISHMENT OF CONSORT. Every person who knowingly enters into a marriage with another which is prohibited to the latter by section 617.11 shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$1,000, or by both.

[R. L. s. 4948] (10181)

617.13 INCEST. When any male and female persons, nearer of kin to each other than first cousins, computing by the rules of the civil law, whether of the half or the whole blood, shall have sexual intercourse together, each shall be guilty of incest, and be punished by imprisonment in the state prison for not more than ten years.

No male or female person under the age of 18 years shall be excused from attending and testifying, or producing any evidence before any court, magistrate, referee, or grand jury, upon any investigation, proceeding or trial, for or relating to or concerned with a violation of this section or attempt to commit such violation, upon the ground that the testimony or evidence required of such person by the state may tend to convict such person of a crime or to subject such person to a penalty or forfeiture; but no such person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which such person may so testify or produce evidence, and no testimony so given or produced shall be received against such person upon any criminal

investigation, proceeding or trial, except upon a prosecution for perjury or contempt of court based upon the giving or producing of such testimony.

[R. L. s. 4949; 1941 c. 346] (10182)

617.14 SODOMY. A person who carnally knows in any manner any animal or bird, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge; or attempts sexual intercourse with a dead body, is guilty of sodomy, and is punishable with imprisonment in the state prison for not more than 20 years, and any sexual penetration, however slight, shall be sufficient to complete the crime.

[R. L. s. 4950; 1909 c. 270 s. 1; 1921 c. 224 s. 1] (10183)

617.15 ADULTERY. When any married woman shall have sexual intercourse with a man, other than her husband, whether married or not, both shall be guilty of adultery and punished by imprisonment in the state prison for not more than two years, or by a fine of not more than \$300.00; but no prosecution shall be commenced except on complaint of the husband or the wife, save when such husband or wife shall be insane, nor after one year from the commission of the offense.

[R. L. s. 4951] (10184)

617.16 FORNICATION. When any man and single woman have sexual intercourse with each other each is guilty of fornication and shall be punished by imprisonment in the county jail for not more than 90 days, or by a fine of not more than \$100.00.

[R. L. s. 4952; 1919 c. 193 s. 1] (10185)

617.17 ABSCONDING BY FATHER TO EVADE PROCEEDINGS ESTABLISHING PATERNITY. If issue is conceived of fornication, and within the period of gestation or within 60 days after the birth of a living child the father absconds from the state with intent to evade proceedings to establish his paternity of such child, he is guilty of a felony and shall be punished by imprisonment in the state prison for not more than two years.

[1917 c. 211 s. 1] (10185A)

ABORTION

617.18 ABORTION, HOW PUNISHED. Every person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve her life, or that of the child with which she is pregnant, shall—

- (1) prescribe, supply, or administer to a woman, whether pregnant or not, or advise or cause her to take, any medicine, drug, or substance; or
- (2) use, or cause to be used, any instrument or other means—

Shall be guilty of abortion and punished by imprisonment in the state prison for not more than four years or in a county jail for not more than one year.

[R. L. s. 4942] (10175)

617.19 PREGNANT WOMAN ATTEMPTING ABORTION. A pregnant woman who takes any medicine, drug, or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, shall be punished by imprisonment in the state prison for not less than one year nor more than four years.

[R. L. s. 4943] (10176)

617.20 DRUGS TO PRODUCE MISCARRIAGE. Whoever shall manufacture, give, or sell an instrument, drug, or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony.

[R. L. s. 4944] (10177)

617.21 EVIDENCE. In any prosecution for abortion or attempting abortion, no person shall be excused from testifying as a witness on the ground that his testimony would tend to criminate himself.

[R. L. s. 4945] (10178)

617.22 CONCEALING BIRTH; SECOND OFFENSE. Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a misdemeanor; and every woman who, having been convicted of endeavoring to conceal the still-birth of any

MINNESOTA STATUTES 1941

3683

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.26

issue of her body, which if born alive would be illegitimate, or the death of such issue under the age of two years, shall, subsequent to such conviction, endeavor to conceal any such birth or death, shall be punished by imprisonment in the state prison for not more than five years.

[R. L. s. 4946; 1917 c. 231 s. 1] (10179)

OBSCENITY

617.23 INDECENT EXPOSURE; PENALTIES. Every person who shall wilfully and lewdly expose his person, or the private parts thereof, in any public place, or in any place where others are present, or shall procure another to so expose himself, and every person who shall be guilty of any open or gross lewdness or lascivious behavior, or any public indecency other than hereinbefore specified, shall be guilty of a misdemeanor, and punished by a fine of not less than \$5.00, or by imprisonment in a county jail for not less than ten days.

Every person committing the offense herein set forth, after having once been convicted of such an offense in this state, shall be guilty of a gross misdemeanor.

[R. L. s. 4953; 1931 c. 321] (10186)

617.24 OBSCENE LITERATURE; PENALTY. Every person who shall:

(1) Sell, lend, give away, or offer to give away, show, or have in his possession with intent to sell, give away, show, advertise, or otherwise offer for loan, gift, sale or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, picture, drawing, photograph, or any article or instrument of indecent or immoral character; or who shall design, copy, draw, photograph, print, utter, publish, or otherwise prepare such a book, picture, drawing, paper, or other article; or write or print, or cause to be written or printed, a circular, advertisement, or notice of any kind, or give oral information stating when, where, how, or of whom or by what means such an indecent or obscene article or thing can be purchased or obtained;

(2) Exhibit upon any public road, street, or other place within view of any minor, any of the books, papers, or other things hereinbefore enumerated; or

(3) Hire, use, or employ any minor to sell or give away, or in any manner distribute, or shall permit any minor in his custody or control to sell, give away, or in any manner distribute, any of the articles hereinbefore mentioned—

Shall be guilty of a gross misdemeanor and be punished by imprisonment in the county jail for not more than one year, nor less than 90 days, or by a fine of not less than \$100.00, nor more than \$500.00, or by both.

[R. L. s. 4954; 1917 c. 241 s. 1] (10187)

617.25 INDECENT ARTICLES AND INFORMATION. Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in his possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine, for the prevention of conception, or for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, or whom, or by what means such article or medicine can be obtained or who manufactures it, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than one year, or by a fine of not more than \$500.00, or by both.

[R. L. s. 4955] (10188)

617.26 MAILING AND CARRYING OBSCENE MATTER. Every person who shall deposit or cause to be deposited in any post-office in the state, or place in charge of any express company or other common carrier or person for transportation, any of the articles or things specified in section 617.24 or 617.25, or any circular, book, pamphlet, advertisement or notice relating thereto, with the intent of having the same conveyed by mail, express, or in any other manner; or who shall knowingly or wilfully receive the same with intent to carry or convey it, or shall knowingly carry or convey the same by express, or in any other manner except by United States mail, shall be guilty of a misdemeanor. The provisions of this section and section 617.25 shall not be construed to apply to an article or instrument used

by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease.

[R. L. s. 4956] (10189)

617.27 SEARCH WARRANT; DESTRUCTION OF PROPERTY. Every municipal court and justice of the peace, upon complaint under oath that any person has in his possession or under his control any of the obscene books, papers, or other matter specified in sections 617.24 to 617.26, shall issue a warrant directed to the sheriff or any constable of the county, therein directing him to search for, seize, and take possession of such obscene matter; and, upon conviction of the person in whose possession the same shall be found, shall cause such matter to be destroyed, and the fact to be entered upon the records of the court.

[R. L. s. 4957] (10190)

617.28 CERTAIN MEDICAL ADVERTISEMENTS. Subdivision 1. **Placing advertisement; penalty.** Any person who shall advertise, in his own name or in the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, or other written or printed paper, or the owner, publisher, or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by him, the treatment or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality," or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive sexual indulgence, or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than \$50.00, nor more than \$500.00, or by imprisonment in the county jail for not more than six months.

Subdivision 2. **Publication; penalty.** Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter hereinabove prohibited, shall be guilty of a misdemeanor, and punished as prescribed in subdivision 1.

[1909 c. 162 ss. 1, 2] (10191) (10192)

617.29 EVIDENCE. The production of any advertisement or advertising matter published or distributed contrary to the provisions of sections 617.28 and 617.29 shall be of itself prima facie evidence of the guilt of the person advertising to cure any such disease hereinabove mentioned, or of the publishers who publish any matter such as is herein prohibited.

[1909 c. 162 s. 3] (10193)

PROSTITUTION AND HOUSES OF ILL-FAME

617.30 KEEPER OF DISORDERLY RESORT. Every person who shall keep a house of ill-fame or assignation, or a house, tent, vehicle, resort, or place of any description for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, shall be guilty of a felony. Every person who shall keep a disorderly house, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who, as agent or owner, lets a building or any portion thereof, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or any portion thereof to be used for any of the aforesaid purposes, shall be guilty of a gross misdemeanor.

[R. L. s. 4958] (10194)

617.31 DETENTION FOR DEBT IN HOUSE OF ILL-FAME. Subdivision 1. **Prohibited.** It shall be unlawful for any person to hold, detain, or restrain in any house of ill-fame or prostitution, any female person for the purpose of compelling such female, directly or indirectly, by her voluntary or involuntary service or labor, to pay, liquidate, or cancel any debt, dues, or obligations incurred, or said to have been incurred, in such house of ill-fame or prostitution.

Subdivision 2. **Penalty.** Any person who violates or suffers the violation of any of the provisions of this section shall be guilty of a felony; and, upon conviction thereof, shall be imprisoned in the state prison for not more than two years.

[1909 c. 461 ss. 1, 2] (10195) (10196)

MINNESOTA STATUTES 1941

3685

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.34

617.32 RECEIVING EARNINGS OF PROSTITUTE. Subdivision 1. **Prohibited.** It shall be unlawful for any person to knowingly accept or receive, in whole or in part, his or her support or maintenance from the proceeds or earnings of any woman engaged in prostitution.

Subdivision 2. **Penalty.** Any person who violates the provisions of this section shall be guilty of a felony; and, upon conviction thereof, shall be punished by imprisonment in the state prison for not less than one year, nor more than three years.

[1909 c. 475 ss. 1, 2] (10197) (10198)

617.33 HOUSES OF PROSTITUTION; NUISANCES; ABATEMENT. Whoever shall erect, establish, continue, maintain, use, own, or lease any building, erection, or place used for the purpose of lewdness, assignation, or prostitution is guilty of a nuisance, and the building, erection, or place, or the ground itself, in or upon which such lewdness, assignation, or prostitution is conducted, permitted, or carried on, continued or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such public nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided.

[1913 c. 562 s. 1] (10199)

617.34 ACTION TO ENJOIN; RESTRAINING ORDER; ANSWER. When a nuisance is kept, maintained, or exists, as defined in sections 617.33 to 617.41, the county attorney or any citizen of the county may maintain an action in equity in the name of the state of Minnesota, upon the relation of such county attorney or citizen, to perpetually enjoin such nuisance, the person or persons conducting or maintaining the same from further conducting or maintaining the same, and the owner or agent of the building or ground upon which the nuisance exists, from further permitting such building or ground, or both, to be so used. The defendants shall be served therein as in other actions, and in such action the court, or judge in vacation, shall, upon the presentation of a verified complaint therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if the existence of such nuisance shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony, or otherwise as the complainant may elect, unless the court or judge, by previous order, shall have directed the form and manner in which such evidence shall be presented, in which case it shall be so presented. Where a temporary injunction is prayed for, the court, on the application of plaintiff, may issue an ex parte restraining order, restraining the defendants and all other persons from removing or in any manner interfering with the furniture, fixtures, musical instruments, and movable property used in conducting the alleged nuisance, until the decision of the court or judge granting or refusing such temporary injunction, and until the further order of the court thereon. The restraining order may be served by handing to and leaving a copy of the order with any person in charge of the property or residing in the premises or apartment wherein the same is situated, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such premises or apartment where such nuisance is alleged to be maintained, or by both such delivery and posting. The officer serving such restraining order shall forthwith make a return into court and inventory of the personal property situated in and used in conducting or maintaining such nuisance. Any violation of such restraining order shall be a contempt of court, and where such order is so posted mutilation or removal thereof, while the same remains in force, shall be a contempt of court; provided, such posted order contains thereon or therein a notice to that effect. Three days' notice, in writing, shall be given the defendants of the hearing of the application for temporary injunction and, if then continued at the instance of defendant, the temporary writ as prayed shall be granted as a matter of course. Each defendant so notified shall serve upon the complainant or his attorney a verified answer on or before the date fixed in the notice for the hearing, and such answer shall be filed with the clerk of the district court of the county wherein the cause is triable, but the court may allow additional time for so answering, providing such extension of time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be traversed without further pleading. When an injunction has been granted, it shall be binding on the defendants throughout the judicial district in which it was issued, and any violation of the

MINNESOTA STATUTES 1941

provisions of the injunction herein provided shall be a contempt, as hereinafter provided.

[1913 c. 562 s. 2] (10200)

617.35 TRIAL; LIMITATION OR DISMISSAL. The action when brought shall be noticed for and triable at the first term of the court the same as other actions triable in the district court of such county, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of the nuisance and shall be prima facie evidence of such nuisance and of knowledge thereof and of acquiescence and participation therein on the part of the owners, lessors, lessees, users, and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form of property used in conducting or maintaining the nuisance. If the complaint is filed by a citizen, it shall not be dismissed except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney, in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, he may direct the county attorney to prosecute the action to judgment at the expense of the county, and, if the action is continued more than one term of court, any citizen of the county or the county attorney may be substituted for the complaining party and prosecute the action to judgment. If the action is brought by a citizen and the court finds there was no reasonable grounds or cause for the action, the cost may be taxed to such citizen.

[1913 c. 562 s. 3] (10201)

617.36 CONTEMPTS. In case of the violation of any injunction granted under the provisions of sections 617.33 to 617.41, or of a restraining order or the commission of any contempt of court in proceedings under those sections, the court or, in vacation, a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court a complaint under oath, setting out and alleging facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of those sections shall be punished by a fine of not less than \$100.00, nor more than \$1,000, or by imprisonment in the county jail for not less than three, nor more than six, months, or by both fine and imprisonment.

[1913 c. 562 s. 4] (10202)

617.37 ORDER OF ABATEMENT; PERSONAL PROPERTY; CONTEMPT; FEES. If the existence of the nuisance be admitted or established in an action, as provided in sections 617.33 to 617.41, or in a criminal proceeding in the district court, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, or movable property used in conducting the nuisance, and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution, and shall direct the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released. Owners of unsold personal property so seized must appear and claim the same within ten days after such order of abatement is made, and prove innocence, to the satisfaction of the court, of any knowledge of the use thereof, and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place. If such innocence be so established, such unsold personal property shall be delivered to the owner, otherwise it shall be sold as hereinbefore provided. If any person shall break and enter or use a building, erection, or place so directed to be closed, he shall be punished as for contempt, as provided in section 617.36. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

[1913 c. 562 s. 5] (10203)

617.38 DUTY OF COUNTY ATTORNEY. In case the existence of such nuisance is established in a criminal proceeding in a court now having equitable jurisdiction, it shall be the duty of the county attorney to proceed promptly, under sections 617.33

MINNESOTA STATUTES 1941

3687

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.41

to 617.41, to enforce the provisions and penalties thereof, and the finding of the defendant guilty in such criminal proceeding, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance. All moneys collected under those sections shall be paid to the county treasurer. The proceeds of the sale of the personal property, as provided in section 617.37, shall be applied in payment of the costs of the action and abatement or so much of such proceeds as may be necessary, except as hereinafter provided.

[1913 c. 562 s. 6] (10204)

617.39 INTERVENTION BY OWNER. If the owner of the premises in which the nuisance has been maintained appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the court in the full value of the property, to be ascertained by the court or, in vacation, by the judge thereof, conditioned that he will immediately abate the nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court or, in vacation, the judge, if satisfied of his good faith, may order the premises closed or sought to be closed under the order of abatement, to be delivered to the owner, and the order of abatement canceled so far as the same may relate to the real property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject by law.

[1913 c. 562 s. 7] (10205)

617.40 PERMANENT INJUNCTION; PENALTY AND LIEN. When a permanent injunction issues against any person for maintaining a nuisance as herein defined, or against any owner or agent of the building kept or used for the purpose prohibited by sections 617.33 to 617.41, there shall be imposed upon the building and the ground upon which the same is located and against the person or persons maintaining the nuisance, and the owner or agent of the premises, a penalty of \$300.00. The imposing of the penalty shall be made by the court as a part of the proceeding, and the clerk of the court shall make and certify a return of the imposition of the penalty forthwith to the county auditor, who shall enter the same as a tax upon the property and against the persons upon which or whom the lien was imposed as and when other taxes are entered, and the same shall be and remain a lien on the land upon which lien was imposed until fully paid; provided, that any such lien imposed while the tax books are in the hands of the auditor shall be immediately entered therein. The payment of such penalty shall not relieve the persons or property from any other penalties provided by law. The provisions of the law relating to the collection of taxes in this state, the delinquency thereof and sale of property for taxes shall govern in the collection of the penalty herein prescribed in so far as the same are applicable, and the penalty collected shall be applied in payment of any deficiency in the costs of the action and abatement on behalf of the state to the extent of such deficiency after the application thereto of the proceeds of the sale of personal property, as hereinbefore provided, and the remainder of the penalty, together with the unexpended portion of the proceeds of the sale of personal property, shall be distributed in the same manner as fines collected for the keeping of houses of ill-fame, excepting that ten per cent of the amount of the whole penalty collected and of the whole proceeds of the sale of the personal property, as provided in those sections, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

[1913 c. 562 s. 8] (10206)

617.41 OWNERS AND AGENTS; PARTIES TO ACTION. When such nuisance has been found to exist under any proceeding in the district court, or as provided in sections 617.33 to 617.40, and the owner or agent of such building or ground whereon the same has been found to exist was not a party to such proceeding, nor appeared therein, the penalty of \$300.00 shall be imposed against the persons served or appearing and against the property, as set forth in those sections. Before the penalty shall be enforced against the property, the owner or agent thereof shall have appeared therein or shall be served with summons therein, and the provisions of sections 543.11 and 543.12 shall apply to service in proceedings under sections 617.33 to 617.40. The person in whose name the real estate affected by the action stands on the books of the county auditor for purposes of taxation shall be presumed to be the owner thereof and, in case of unknown persons having or claiming any ownership, right, title, or interest in property affected by the action, such may be

made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title or interest in the property affected by the action" and service thereon may be had by publishing such summons in the manner prescribed in section 543.11. Any person having or claiming such ownership, right, title or interest, and any owner or agent in behalf of himself and such owner may make, serve, and file his answer therein within 20 days after such service and have trial of his rights in the premises by the court; and, if the cause has already proceeded to trial or to findings and judgment, the court shall by order fix the time and place of such further trial and shall modify, add to, or confirm such findings and judgment as the case may require. Other parties to the action shall not be affected thereby.

[1913 c. 562 s. 9] (10207)

DANCE HALLS

617.42 DANCE HALL. A public dancing place, as the term is used in sections 617.42 to 617.54, shall be taken to mean any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing. A public dance, as the term is used in those sections, shall be taken to mean any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, or a fee for a membership in a club, and shall include any manner of holding a dance which may be participated in by the public through the payment of money, directly or indirectly. When used in sections 617.42 to 617.54, the term "intoxicating liquor" and "liquor," "sell" and "sale" shall be given the same meaning, respectively, as is prescribed in Laws 1919, Chapter 455, Section 1.

[1923 c. 139 s. 1] (10161)

617.43 PROPRIETORS MUST OBTAIN PERMITS. It shall be unlawful for any person to give, hold, or conduct a public dance unless the owner or proprietor of the public dancing place, or the person giving the same or in charge thereof, shall first have procured a permit to hold, give, and conduct such public dance from the public authorities hereinafter designated, as hereinafter provided.

[1923 c. 139 s. 2] (10162)

617.44 ISSUANCE OF PERMIT. In all cities, villages, and boroughs of this state the permit must be procured from the governing body of the municipality; provided, that in any county within which there now exists a city having a population of 225,000, or more, such permits may be issued only by the town board of the town within which such public dance is to be held, except when the public dancing place is owned by the municipality and the dance to be given or held therein is to be given by and under the supervision of the public authorities of the municipality. In all other cases the permit must be procured from the county board of the county in which the public dance is to be held. Such permits may be issued for one or more public dances or for a period of time not exceeding one year; provided, that in any case where a permit for one single dance is desired, the town board of the town where the dance is to be held shall have a right to grant the same, but any person owning or operating a dance pavilion or dance hall in any such town where dances are regularly held during the year, or a part thereof, must make application for such dance permit to the county commissioners; and, provided, that this shall not apply to counties having a population of 225,000, or more. The permit shall be issued at a fee and under such conditions as such governing body or county board may prescribe, not inconsistent with the provisions of sections 617.42 to 617.54; provided, no such permit shall be granted in any organized town outside of the limits of any city or village, in which town the town board shall pass a by-law or resolution prohibiting public dances therein.

[1923 c. 139 s. 3; 1929 c. 264 s. 1] (10163)

617.45 PERMIT TO BE POSTED. Any person desiring a permit to hold, give, or conduct a public dance shall make application therefor by filing with the city clerk, village recorder, or county auditor, as the facts may require, a verified application, setting forth the name and address of the person, persons, committee, or organization who are to give, hold, and conduct the same, the time and place where such public dance is to be held, and the area of the dance floor where the dance is to be given. The application shall thereupon be presented to the governing body or

MINNESOTA STATUTES 1941

3689

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.50

to the county board at its next meeting for action. The governing body or the county board may refer the application to the chief peace officer of the municipality or to the sheriff of the county for investigation and report before granting the same. The governing body or the county board shall thereupon act upon the application and either grant or reject the same. In case the same is granted, the governing body or the county board shall fix the fee to be paid by the applicant for such permit and shall direct the proper officers to issue the same upon the payment of the fee and upon payment of the expense of the investigation herein provided for in case such investigation is made. The permit shall specify the names and addresses of the persons to whom issued, the amount paid therefor, and the time and place where the public dance is to be held. The permit shall be posted in a public place in the dance hall described therein during the time the public dance mentioned therein is being given, and the persons named in the permit shall be responsible under the law for the manner in which the public dance is being held and conducted. Such permit may be acted upon at any special meeting of the governing body or county board, whether included in the call for the special meeting or otherwise.

[1923 c. 139 s. 4; 1929 c. 264 s. 2] (10164)

617.46 APPLICATIONS. All applications for such permits shall be made upon blanks furnished by the city, village, or county, as the case may be, and shall be accompanied by the affidavit of two freeholders and shall affirmatively show by the application and affidavits that the applicant is a person of good moral character and reputation in the community in which he lives and that the applicant has not, within five years prior to the making of the application, been convicted of a felony, gross misdemeanor, or of any of the provisions of sections 617.42 to 617.54, and no such application shall be granted to any person of bad character or who has been so convicted as aforesaid, nor to any person who is keeper of any disorderly house of any kind, nor for any place which has any direct or indirect communication with any room in which intoxicating liquor is sold, given away, or otherwise used, nor for any place having any so-called "private apartments" or "private rooms" furnished or used for any other than legitimate business purposes which adjoin such dancing place or which may be reached by stairs, elevator, or passageway leading from such dancing place. No permit shall be issued under the terms of sections 617.42 to 617.54 unless the governing body or county board is satisfied that the place where the public dance is to be given or held is properly ventilated and equipped with necessary toilets, wash-rooms, lighting facilities, and that such place is not likely to become a public nuisance or detrimental to public morals.

[1923 c. 139 s. 5; 1929 c. 264 s. 3] (10165)

617.47 IMMODEST DANCES PROHIBITED. No person shall dance, nor shall any person to whom such permit is issued permit or suffer any person to dance in any public dance hall any indecent or immoral dances or any dance which is characterized by immodest motion of the body. No person shall in any public dance hall act or speak in rude, boisterous, obscene, or indecent manner, nor shall any person to whom a permit has been issued suffer or permit any person to so act or speak therein.

[1923 c. 139 s. 7] (10167)

617.48 LIGHTS. Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed, or turned low, so as to give imperfect illumination, is hereby prohibited.

[1923 c. 139 s. 8] (10168)

617.49 NOT TO ADMIT CERTAIN PERSONS. No person to whom a permit has been issued shall permit to be or remain in any public dancing place any intoxicated person, any prostitute, any person of known immorality, or any unmarried person under the age of 16 years, unless such person is accompanied by a parent or guardian, nor any unmarried person more than 16, and under the age of 18, years unless such person is accompanied by a parent or guardian or presents the written consent of his parent or guardian to the officer in charge of such dance, and every such written permit shall be retained by such officer.

[1923 c. 139 s. 9] (10169)

617.50 OFFICER MUST ATTEND ALL PUBLIC DANCES. It shall be incumbent upon the person to whom such permit is issued to have an officer of the law present at every public dance to be given or held thereunder during all the time the public dance is being held. In the case of a public dance to be held or given in a city, village, or borough, such officer of the law shall be designated by the

chief peace officer thereof. In all other cases such officer of the law shall be designated by the sheriff of the county. In all cases the fees and expenses of such officer of the law shall be paid in advance by the person to whom the permit has been issued. In case any person, not a public officer, shall be designated as such officer of the law, the person to whom the permit has been issued shall be responsible for his acts and conduct and there shall be no liability for his acts and conduct on the part of the officer designating him under the provisions of sections 617.42 to 617.54.

[1923 c. 139 s. 10; 1927 c. 321] (10170)

617.51 HOURS. No public dance shall be held or conducted between the hours of one o'clock and six o'clock a. m., of any day; provided, that no public dance shall be held or conducted on Sunday during the hours preceding 12 o'clock noon thereof. In all other cases the public authorities issuing the permit herein provided for may, if they so desire, fix the hours within which public dances may be held, not inconsistent herewith, and shall also have authority, by ordinance, resolution, or by-law, to regulate or to prohibit the same on Sunday, within the limits of the city, village, or territory within which such public authorities may grant permits for public dancing as herein provided.

[1923 c. 139 s. 11; 1925 c. 302] (10171)

617.52 DISPOSITION OF FEES. All fees for permits hereunder shall be paid into the treasury of the municipality or into the county treasury, as the case may be.

[1923 c. 139 s. 12] (10172)

617.53 REVOCATION OF PERMIT. The governing body or town board issuing a permit hereunder may at any time revoke the same and shall revoke any such permit held by any person convicted of violating any of the provisions of sections 617.42 to 617.54; provided, any five or more freeholders residing in any village having a population of not more than 1,000, or in any town, may petition such town board or village council of any such town or village, setting forth that any dancing place for which a permit has been issued is being conducted contrary to law, whereupon it shall be the duty of such board or village council to hear and act upon such petition within ten days after the same shall have been filed with the town clerk or village recorder; and, in case any such petition shall be denied, or not acted upon, within such time, then any five freeholders of such town or village may file a petition with the county board of the county, setting forth the facts. Thereupon it shall be the duty of such county board to hear and determine such petition, and such board shall have power, and it shall be the duty of such board, to revoke any such permit if it finds that such dancing place has been conducted contrary to law. It shall be the duty of the county attorney in each county to enforce the provisions of sections 617.42 to 617.54 and prosecute all violations thereof.

[1923 c. 139 s. 13] (10173)

617.54 VIOLATION A MISDEMEANOR. Any person, firm, or corporation violating any of the provisions of sections 617.42 to 617.53 shall be guilty of a misdemeanor.

[1923 c. 139 s. 14] (10174)

CRIMES RELATING TO CHILDREN

617.55 DESERTION OF CHILD OR PREGNANT WIFE. Every parent, including the duly adjudged father of an illegitimate child and a father who in an action for divorce or separate maintenance has been judicially deprived of the actual custody of his child, or other person having legal responsibility for the care or support of a child who is under the age of 16 years and unable to support himself by lawful employment, who fails to care for and support such child with intent wholly to abandon and avoid such legal responsibility for the care and support of such child; and every husband who, without lawful excuse, deserts and fails to support his wife, while pregnant, with intent wholly to abandon her, is guilty of a felony; and, upon conviction, shall be punished therefor by imprisonment in the state prison for not more than five years. Desertion of and failure to support a child or pregnant wife for a period of three months shall be presumptive evidence of intention wholly to abandon or to avoid legal responsibility for the care and support of the child.

[R. L. s. 4933; 1911 c. 144 s. 1; 1915 c. 336 s. 1; 1917 c. 213 s. 1; 1931 c. 94] (10135)

617.56 FAILURE TO SUPPORT WIFE OR CHILD. Every man who, without lawful excuse, wilfully fails to furnish proper food, shelter, clothing, or medical attendance to his wife, such wife being in destitute circumstances; and every person having legal responsibility for the care or support of a child who is under 16 years of age and unable to support himself by lawful employment, who wilfully fails to make proper provision for such child, is guilty of a misdemeanor. If any person convicted under this section gives bond to the state, in such amount and with such sureties as the court prescribes and approves, conditioned to furnish the wife or child with proper food, shelter, clothing, and medical attendance for such a period, not exceeding five years, as the court may order, judgment shall be suspended until some condition of the bond is violated. The bond may, in the discretion of the court, be conditioned upon the payment of a specified sum of money at stated intervals. Upon the filing of an affidavit showing the violation of any of the conditions of the bond, the accused shall be heard upon an order to show cause and, if the charge be sustained, the judgment shall be executed. The wife or child, and any person furnishing necessary food, shelter, clothing, or medical attendance to either, may sue upon the bond for a breach of any condition thereof.

[R. L. s. 4934; 1917 c. 213 s. 2] (10136)

617.57 PROSECUTION. On complaint being made in writing and under oath by the wife or by an official or member of the governing body of the town, village, city, or county wherein such wife is a resident, or by any reputable person to a justice of the peace or judge of a municipal court, accusing any person of the offense defined in section 617.56, the justice or judge shall issue his warrant against the person accused, directed to the sheriff or constable of the county, commanding him forthwith, to bring the accused person before the justice or judge to answer such complaint.

[1903 c. 222 s. 1; 1905 c. 217 s. 1; 1917 c. 213 s. 3; 1941 c. 396] (10137)

617.58 PROOF OF RELATIONSHIP. In any prosecution for desertion of, or failure to support, a wife or child no other or greater evidence shall be required to prove the relationship of the defendant to such wife or child than is or shall be required to prove such relationship in a civil action.

[1903 c. 222 s. 1; 1905 c. 217 s. 1; 1917 c. 213 s. 4] (10138)

617.59 ENDANGERING LIFE, HEALTH, OR MORALS OF MINORS. Every person having the care or custody of a minor who shall:

(1) Wilfully cause or permit his life to be endangered, his health to be injured, or his morals to become depraved; or

(2) Wilfully cause or permit such minor to be placed in a situation, or to engage in an occupation, which will be likely to endanger his life, injure his health, or impair his morals —

Shall be guilty of a gross misdemeanor.

[R. L. s. 4935] (10139)

617.60 KEEPERS OF PUBLIC PLACES TO EXCLUDE MINORS. Whoever permits any person under the age of 21 years to be or remain in any dancehouse, concert saloon, place where intoxicating liquors are sold or given away, or any place of entertainment injurious to the morals, owned, kept, or managed by him, in whole or in part, or shall permit any person under the age of 21 years to play any game of skill or chance in any such place, shall be guilty of a misdemeanor and be punished by a fine of not less than \$25.00.

[R. L. s. 4936] (10140)

617.61 MINORS; GAMING BY PROHIBITED, WHERE; HOW PUNISHED. All persons under the age of 21 years are prohibited from playing pool or billiards or cards in any saloon or room connected therewith or in any restaurant or public place of amusement in which tobacco, confectionery, or drinks of any kind, except water, are in any manner disposed of; and every keeper or person in charge of any such place who shall permit or suffer any person under the age of 21 years to play pool, billiards, or cards therein shall be guilty of a misdemeanor and be punished by a fine of not less than \$25.00 or by imprisonment in the county jail for not exceeding 30 days.

[R. L. s. 4937] (10141)

617.62 RESTRICTIONS ON MINORS IN PLACES OF AMUSEMENT. Any person under the age of 18 years or who is a minor pupil in any school, college, or university is prohibited from playing pool or billiards in any public pool or billiard room or in any public place of business, unless accompanied by his parent or guar-

MINNESOTA STATUTES 1941

dian, and any person under the age of 18 years or who is a minor pupil in any school, college, or university who shall engage in any game of pool or billiards in any such place, or frequent or loiter within any pool or billiard room, or any public place of business where pool or billiards are played, unless accompanied by his parent or guardian, shall be guilty of a misdemeanor and punished by a fine of not exceeding \$10.00.

[1913 c. 572 s. 1; 1941 c. 65 s. 1] (10142)

617.63 KEEPERS OF PUBLIC PLACES TO EXCLUDE; PENALTY. Every keeper or person in charge of any pool or billiard room, or public place of business where pool or billiards are played, who shall permit or allow any person under the age of 18 years or any minor pupil of any school, college, or university to play any of these games therein, or to gather in, loiter, or frequent any such place unless accompanied by his parent or guardian, shall be guilty of a misdemeanor and punished by a fine of not less than \$25.00 or by imprisonment in the county jail for not exceeding 30 days.

[1913 c. 572 s. 2; 1941 c. 65 s. 2] (10143)

617.64 USE OF TOBACCO BY MINORS. Every person under the age of 18 years, and every minor pupil in any school, college, or university, who shall smoke or use cigarettes, cigars, or tobacco in any form on any public road, street, alley, park, or other lands used for public purposes, or in any public place of business, shall be guilty of a misdemeanor, and punished for each offense by a fine of not more than \$10.00, or by imprisonment in the county jail for not more than five days; and every person who shall furnish any cigarettes, cigars, or tobacco in any form to any such minor person, or who shall permit any such minor person to frequent any premises owned, held, or managed by him, for the purpose of indulging in the use of cigarettes, cigars, or tobacco in any form, shall be guilty of a misdemeanor, and punished by a fine of not more than \$50.00, or by imprisonment in the county jail for not exceeding 30 days, for each offense.

[R. L. s. 4988] (10144)

617.65 MINORS; SALE OF TOBACCO TO. Any person within this state who sells, gives to, or in any way furnishes any cigarettes, cigars, or tobacco in any form to any person under 18 years of age, or to any minor pupil in any school, college, or university, shall be punished by a fine of not to exceed \$50.00, or by imprisonment in the county jail for not to exceed 30 days, for each offense.

[1907 c. 386 s. 2] (10145)

617.66 USE OF TOBACCO IN PUBLIC PLACE; ARREST; PENALTY; EVIDENCE. Any person under 18 years of age, any minor pupil, as described in section 617.65, who shall smoke or use cigarettes, cigars, or tobacco in any form on any public highway, street, alley, park, or other lands used for public purposes, or in any public place of business, shall be arrested by an officer of the law, who may be cognizant of such offense; and it shall be the duty of all such officers, upon complaint of one citizen, to arrest such offenders and take them before the proper court. The court shall impose a punishment at its discretion in the sum of not to exceed \$10.00, or imprisonment in the county jail for not to exceed five days, for each offense; provided, if such minor person shall give information which may lead to the arrest of the person violating section 617.65, in giving or selling to, or in any way furnishing such minor person tobacco, and shall give evidence as a witness in such proceedings against the party or parties, the court shall have power to suspend sentence against such minor person.

[1907 c. 386 s. 3] (10146)

617.67 HARBORING. Any person who harbors or grants to persons under 18 years of age, or to minor pupils, as described in section 617.65, privilege of gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes, cigars, or tobacco in any form, shall be held in the same penalty as provided for in section 617.65; provided, that no part of sections 617.65 to 617.68 shall be so construed as to interfere with the rights of parents or lawful guardians in the rearing and management of their minor heirs or wards, within the bounds of their own private premises.

[1907 c. 386 s. 4] (10147)

617.68 POWERS OF GRAND JURY. Grand juries shall have inquisitorial powers over offenses committed under sections 617.65 to 617.67.

[1907 c. 386 s. 5] (10148)

MINNESOTA STATUTES 1941

3693

OFFENSES AGAINST CHASTITY, MORALS, DECENCY 617.72

617.69 LIQUORS IN SCHOOLHOUSES OR GROUNDS. Any person who shall introduce upon, or have in his possession upon, or in, any school ground, or any schoolhouse or school building, any spirituous or malt liquors, except for experiments in laboratories, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of \$25.00, or imprisonment for ten days in the county jail.

[1913 c. 415 s. 1] (10149)

617.70 SALE OF LIQUOR WITHIN ONE MILE OF CERTAIN INSTITUTIONS. Any person who shall sell any intoxicating liquor, or maintain a drinking place, within one mile of the university farm of the school of agriculture of the University of Minnesota, located in Ramsey county, Minnesota, on section 21, township 29, range 23 west, or shall aid or abet another in either of such acts, shall be guilty of a gross misdemeanor, and shall be punished, for the first offense, by a fine of not more than \$100.00, or by imprisonment for not less than 60, nor more than 90, days; for each subsequent offense, by a fine of not less than \$500.00, nor more than \$1,000, or by imprisonment in the county jail for not less than six months, nor more than one year, or by both.

[1907 c. 378 s. 1; 1933 c. 27 s. 1] (10150)

617.71 SALE OF LIQUOR OR CIGARETTES WITHIN 1,000 FEET OF CERTAIN INSTITUTIONS. Any person who shall sell or dispose of any intoxicating liquor or cigarettes at retail, or who shall maintain or assist in maintaining any place where such articles or subjects of commerce are kept for sale or disposal, and any person who shall maintain any pool or billiard room or bowling alley, or any place of amusement where persons are permitted to assemble or loiter within 1,000 feet of any of the following named state institutions: The St. Peter state hospital for the insane, the Rochester state hospital for the insane, the Fergus Falls state hospital for the insane, the first state asylum for the insane at Anoka, the second state asylum for the insane at Hastings, the state training school at Red Wing, the Minnesota home school for girls at Sauk Centre, the state reformatory at St. Cloud, the state prison at Stillwater, the state public school at Owatonna, the state sanatorium for consumptives at Walker, the hospital for crippled and deformed children at St. Paul, and the state hospital for inebriates at Willmar, shall be guilty of a gross misdemeanor; provided, that the provisions of this section shall not apply to any manufacturer of intoxicating liquors or drug store whose place of manufacture or business is at the time of the passage of this section located within 1,000 feet of any of the institutions herein named or the grounds thereof; provided, further, that the provisions of this section shall not apply to any person lawfully licensed to sell intoxicating liquors, nor to the premises so licensed, located at the time of the passage of this section within 1,000 feet of any of the institutions herein named and the grounds and premises thereof. No license for the doing of any of the things herein prohibited shall be granted by the governing body of any town, county, or municipality.

[1913 c. 507 s. 1] (10151)

617.715 PEDDLING AND CANVASSING PROHIBITED ON SCHOOL GROUNDS; PENALTY. No person shall offer for sale, sell, or peddle any goods, wares, books, newspapers, magazines, or merchandise, insurance, course of instruction, or any other thing whatsoever, or canvass or take orders therefor, or solicit the endorsement of any goods, wares, books, newspapers, magazines, merchandise, insurance, or course of instruction, or other thing, or loiter for any of the purposes hereinbefore referred to in any public school building or upon any public school grounds not located within the limits of any city, village, or borough, whether or not such person has a license to offer for sale, sell, solicit, or canvass for such goods, wares, books, newspapers, magazines, merchandise, insurance, course of instruction, or any other thing; provided, this section shall not be construed as prohibiting the soliciting of or taking of such orders from, or making such sale to the school board or any member thereof, the board of education or any member thereof, or the superintendent of schools.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

[1929 c. 181 ss. 1, 2; 1939 c. 155 s. 1] (10151-1) (10151-2)

617.72 DISTRIBUTION OF CRIME LITERATURE AMONG MINORS. Subdivision 1. **Prohibited.** No person shall sell, lend, give away, show, advertise, or otherwise offer for loan, gift, sale, or distribution to any minor under the age of 18 years, any book, pamphlet, magazine, newspaper, or other printed paper devoted

MINNESOTA STATUTES 1941

617.73 OFFENSES AGAINST CHASTITY, MORALS, DECENCY

3694

to-the publication or largely made up of criminal news, police reports, accounts of criminal deeds, or pictures or stories of deeds of bloodshed, lust, or crime; nor shall any person hire, use, or employ a minor under the age of 18 years to sell or give away, or in any manner distribute, or permit any such minor in his custody or control to sell, give away, or in any manner distribute, any material herein described.

Subdivision 2. Penalty. Any person who violates any provision of this section is guilty of a misdemeanor.

[1917 c. 242 ss. 1, 2] (10154) (10155)

617.73 CRUELTY TO CHILDREN. Every person who shall torture, torment, or cruelly or unlawfully punish any child under the age of 18 years, or who shall commit any act of cruelty toward such child, shall be guilty of a misdemeanor.

[R. L. s. 4940; 1917 c. 240 s. 1] (10153)

617.74 UNLAWFUL CONFINEMENT OF FEEBLE-MINDED PERSONS; PENALTY. Every person who shall confine a lunatic, insane or feeble-minded person in any other manner or in any other place than is authorized by law, or who shall be guilty of harsh, cruel, or unkind treatment of, or neglect of duty toward, any feeble-minded person, lunatic, or insane person under confinement, whether lawfully or unlawfully confined, shall be guilty of a misdemeanor.

[R. L. s. 4941; 1917 c. 209 s. 1] (10156)

617.75 HABITUAL OFFENDERS IN CERTAIN CASES. **Subdivision 1. Habitual offenders.** Every person who shall hereafter be guilty of being a vagrant or of unlawfully selling, giving to another, or using any drug or narcotic, or of any unlawful, lewd, or lascivious behavior or public indecency, or of any criminal offense against women or children, as defined in section 617.55 or 617.56, or of any misdemeanor or gross misdemeanor involving moral turpitude, who within the previous period of five years shall have been twice convicted in this state of one or more of the offenses hereinbefore named, shall be guilty of being an habitual offender.

Subdivision 2. Penalty. Such person shall be punished for such third offense, if a woman, by imprisonment in the state reformatory for women, and, if a man between the ages of 18 and 30 years, by imprisonment in the state reformatory at St. Cloud, and, if a man above the age of 30 years, by imprisonment in the state prison at Stillwater, for a term of not exceeding three years.

Subdivision 3. Evidence. A duly certified copy of the record of a conviction and judgment of any court in this state against the person indicted or complained of shall be prima facie evidence of such former conviction, and may be used in evidence against such person.

Subdivision 4. Prisoners subject to parole. Any person so committed to the state reformatory for women, or the state reformatory at St. Cloud, or the state prison at Stillwater, shall be subject, except as herein otherwise provided, to parole and discharge by the state board of parole, as in the case of other persons subject to parole and discharge by that board.

Subdivision 5. Examination as to disease. No person convicted hereunder shall be paroled or discharged until he shall have been first examined by a licensed physician and, if it appears that such person has a venereal or other infectious disease, the board of parole, in granting a parole or discharge, shall include in the conditions of the parole or discharge a condition requiring suitable medical treatment of such person by a duly licensed physician under supervision of the state board of health.

[1921 c. 455 ss. 1, 2, 3, 4] (10157) (10158) (10159) (10160)