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GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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CHAPTER 103

MISCELLANEOUS CRIMES

[8965—]1. Sale of certain narcotics prohibited—Exceptions—On or after the 31st day of December, 1915, it shall be unlawful for any person to possess or sell or otherwise dispose of any opium or preparation or manufacture thereof; any morphine or salt or ester or other derivative thereof; any heroin or salt or ester thereof; any coca leaves except decocanized coca leaves; any preparation or manufacture of coca leaves except decocanized preparations or manufactures; any cocaine or salt or ester or other derivative thereof; any alpha—or beta—eucaine or salt or ester thereof; or any chloral or any salt, or ester thereof; or any synthetic substitute for any of the aforementioned substances. Provided that nothing contained in this section shall apply:

(a) To the possession of any of the aforementioned substances by legally licensed physicians or surgeons in connection with the practice of medicine or surgery, by legally licensed dentists in connection with the practice of dental medicine or surgery, by legally licensed veterinarians in connection with the practice of veterinary medicine or surgery, by legally licensed pharmacists or druggists in connection with the practice of pharmacy, by hospitals or similar institutions, when intended exclusively for the treatment of patients in said institutions, by manufacturers of any of the aforementioned substances, by wholesale dealers in any of the aforementioned substances, or by colleges, scientific or public institutions when intended exclusively for educational, scientific or public purposes.

(b) To the possession by common carriers of original packages of any of the aforementioned substances consigned to any of the persons enumerated in paragraph (a) of this section.

(c) To the possession by duly authorized officers of the law of any of the aforementioned substances seized in the performance of their official duties.

(d) To the possession by any person of any of the aforementioned substances which have been dispensed by a legally licensed physician, surgeon, dentist, veterinarian, pharmacist or druggist in compliance with this act, and are possessed in the form in which they are dispensed and in a container which is labeled in conformity with this act.

(e) To the possession by consumers, by common carriers or by retail dealers licensed by the board of pharmacy of bona fide medicinal preparations intended for internal use, which do not contain in one fluid ounce, or if a solid or a semi-solid preparation, in one avoirdupois ounce, separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grains of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain of codeine or any salt thereof, or 120 grains of chloral or any salt or ester thereof, or of any bona fide medicinal preparation suitable for external use only which does not contain cocaine or any salt or derivative thereof or any synthetic substitute thereof, or alpha—or beta—eucaine or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof.

(f) To the sale or other disposal of the aforementioned substances by manufacturers, wholesale dealers, legally licensed pharmacists or druggists to manufacturers, wholesale dealers, hospitals or similar institutions, colleges, scientific or public institutions, or legally licensed physicians, dentists, veterinarians, pharmacists or druggists; provided that a record of such sale or disposal, showing the date of the transaction, the names and addresses of the parties thereto, the name and quantity of the substance transferred, be made and kept on file by both parties to the transaction for two years open to inspection by duly authorized officers of the law; provided that the making and preserving of any order and duplicate, or of any record required by any other law of this state or of the United States, which order, duplicate or rec-

ord shall set forth the facts above required to be stated, shall be deemed a satisfactory compliance with the provisions of this paragraph. Whenever required to do so by the authorities charged with the duty of enforcing this act any person selling or distributing the aforementioned substances shall render to such authorities requesting it a true and correct statement verified by affidavit setting out the quantity of such drugs received by him during a period immediately preceding the request, not exceeding three months, as the authorities may demand, the names of the persons from whom the said drugs were received, the quantity in each instance received from each of such persons, and the date when received.

(g) To the sale or other disposal to a consumer of any of the aforementioned substances by a legally licensed pharmacist or druggist pursuant to the written prescription of a legally licensed physician, surgeon, or dentist, provided that said prescription is dated as of the day on which it was signed by the prescriber, bears the signature and address of the prescriber and the name of the person for whose use the said substance is intended; and provided that the said prescription be serially numbered and dated and filed in its appropriate place in the prescription file of the compounder and be retained on file for two years open to inspection by any duly authorized officer of the law; and provided further that, with the exception of any prescription for a preparation which, if for internal use, does not contain in one fluid ounce, if a solid or semi-solid preparation, in one avoirdupois ounce separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain of codeine or any salt thereof, or 120 grains of chloral or any salt or ester thereof, or, if for external use, does not contain cocaine or any salt derivative thereof, or any synthetic substitute therefor, or alpha—or beta—eucaine, or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof; such prescription shall be filled but once and no copy of such prescription shall be given to any person except to a duly authorized officer of the law for use in connection with the enforcement of this act or laws of the United States; and provided further that the medicine dispensed upon such prescription shall be delivered in a container which is labeled with the serial number of the prescription, the date upon which it is filled, the name of the person for whose use the medicine is intended, the name of the prescriber, and the name and address of the dispenser.

(h) To the sale or other disposal of any of the aforementioned substances by a legally licensed pharmacist or druggist to a person authorized in writing by the prescriber to receive such substance on the written prescription of a legally licensed veterinarian; provided that such prescription is dated as of the day on which it was signed by the prescriber, bears the signature and address of the prescriber, the name of the person authorized to receive the medicine, and the kind of animal for whose use the said substance is intended; and provided that such prescription be identified, filed and preserved in the manner provided in the preceding paragraph; and provided further that with the exception of any prescription for a preparation for external use, which does not contain any cocaine or any salt or derivative thereof or any synthetic substitute therefor, or any alpha—or beta—eucaine or any salt or derivative thereof or any synthetic substitute therefor, or any heroin or any salt or derivative thereof, such prescription shall be filled but once and no copy of such prescription shall be given to any person except to a duly authorized officer of the law for use in connection with the enforcement of this act or the laws of the United States; and provided further that the medicine dispensed upon such prescription shall be delivered in a container which is labeled with the serial number of the prescription, the date upon which it is filled, the name of the person authorized by the prescriber to receive the medicine, the kind of animal for whose use the medicine is intended, the name of the prescriber, and the name and address of the dispenser.

(i) To the administration, sale or other disposal of any of the aforementioned substances by a legally licensed physician or dentist for or to a

patient upon whom he is in professional attendance; provided that said physician or dentist shall keep a record of the name and address of the patient, the date of the sale or other disposal, and the amount of the drug transferred; provided that the making and preserving of any record required by any other law of this state or of the United States, which record shall set forth the facts above required to be stated, shall be deemed satisfactory compliance with the provisions of this paragraph; and provided further that any of the aforementioned substances dispensed for the use of a patient by a legally licensed physician or dentist shall be delivered in a container labeled with the name of the patient, the date of the delivery, and the name and address of the dispenser.

(j) To the administration of any of the aforementioned substances to a lower animal and not to a human being by a legally licensed veterinarian, or to the prescribing, sale, or other disposal of the aforementioned substances for administration to a lower animal and not to a human being, by a legally licensed veterinarian; provided that said veterinarian when selling or delivering any of the aforementioned substances shall keep a record of the name and address of the person to whom he delivers any of the aforementioned substances, the kind of animal for whose use the aforementioned substances are delivered, the date of the delivery and the amount of the drug transferred in such instances as he may deliver of any of the aforementioned substances more than two full adult medicinal doses for the kind of animal specified, and provided further that any of the aforementioned substances delivered by a legally licensed veterinarian shall be delivered in a container labeled with the name of the person to whom the delivery is made, the kind of animal for whose use the medicine is intended, the date of the delivery, and the name and address of the dispenser.

(k) To the sale by manufacturers, wholesale dealers, legally licensed pharmacists, druggists, physicians, surgeons, dentists or veterinarians or by retail dealers licensed by the board of pharmacy to sell bona fide medicinal preparations intended for internal use, which do not contain in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain codeine of [or] any salt thereof, or 120 grains of chloral or salt or ester thereof, or of any bona fide medicinal preparation suitable for external use only, which does not contain cocaine or any salt or derivative thereof or any synthetic substitute therefor, or alpha—or beta—eucaine or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof: ('15 c. 260 § 1)

Section 6 repeals inconsistent acts, etc.

By § 7 the act takes effect December 31, 1915.

[8965—]2. **Same—Physicians and dentists forbidden to prescribe for habitual users, etc.**—It shall be unlawful for any physician or dentist to furnish to or prescribe for the use of any habitual user of the same any of the substances enumerated in Section 1 of this act [8965—1]; provided that the provisions of this section shall not be construed to prevent any legally licensed physician from prescribing in good faith for the use of any patient under his care for the treatment of a drug habit such substances as he may deem necessary for such treatment; provided that such prescriptions are given in good faith for the treatment of such habit. ('15 c. 260 § 2)

[8965—]3. **Same—Penalty**—Any person who violates the foregoing provisions of this act shall be deemed guilty of a felony and for each violation thereof shall be punished on conviction thereof, by imprisonment in the penitentiary for not less than one year nor more than five years, or by a fine of not less than \$100.00 nor more than \$1,000.00, or both imprisonment and fine in the discretion of the court; provided, however, that a legally licensed pharmacist or druggist shall not be held liable for the innocent compounding and dispensing of any of the articles enumerated in Section 1 of this act [8965—1], in consequence of a false, fraudulent or forged prescription which

he in good faith believed to be a prescription of a licensed physician, licensed dentist or licensed veterinarian issued for a lawful purpose. ('15 c. 260 § 3)

[8965—]4. **Same—Licenses revoked on second conviction**—Whenever any legally licensed physician, surgeon, dentist, veterinarian, pharmacist, druggist, manufacturer, wholesale or retail dealer or institution, shall have been twice convicted in a court of proper jurisdiction of any felony under this act, the officer or board, having power to issue licenses to any such licensed person, may, after giving such licensee reasonable notice and opportunity to be heard, revoke the license of said licensee. ('15 c. 260 § 4)

[8965—]5. **Same—"Person" defined**—The word "person" as used in this act shall be construed to mean and include a partnership, association, company or corporation, as well as a natural person. ('15 c. 260 § 5)

8969. Frauds on innkeepers, etc.—

Cited (135-89, 160+204).

8971. Advertisement soliciting divorce business—

This section is not invalid as depriving attorneys or others of a vested right (123-227, 143+780). Constitutional Law, ¶92.

An advertisement by an attorney, "Law Specialties, divorce and corporation matters; confidential advice; free booklet on organization and promotion of corporations; references," was a violation of this section (123-227, 143+780). Attorney and Client, ¶33.

Violation of this statute by an attorney, being a misdemeanor involving moral turpitude, is ground for suspension from practice (123-529, 143+1135). Attorney and Client, ¶39.

8973. Trusts and combinations—

123-17, 142+930, L. R. A. 1915B, 1179, 1195.

Monopolies—The violation of the statute by the formation of a combination is not excused by facts tending to justify the act, and which would have been proper and legal had the members acted independently. The combination of several persons and corporations, all independent dealers in the milk and cream business, to raise the price thereof is a violation of the statute, though the increased price was necessary to afford them a profit (124-34, 144+417, 51 L. R. A. [N. S.] 244). Monopolies, ¶17(1).

For the violation of this and the following section for entering into a combination to raise the price of commodities, a domestic corporation is not subject to the penalty imposed by this section, but only to the forfeiture prescribed by § 8974. The original statute, 1899 c. 359, imposed both fine and forfeiture of charter, but the revision of 1905 changed the statute in this respect, thereby making the penalty of forfeiture of the charter the exclusive punishment as to domestic corporations (124-34, 144+417, 51 L. R. A. [N. S.] 244). Monopolies, ¶26(1).

An indictment under this section, charging that defendants, several concerns and corporations, "were jointly and severally" engaged in a certain occupation, and in violation of the statute formed a combination for increasing the price of their products, held to charge that defendants were to some extent independent dealers, and not jointly associated in business as one concern. Evidence held to support a conviction under this section (124-34, 144+417, 51 L. R. A. [N. S.] 244). Monopolies, ¶31.

Contracts in restraint of trade—An advertising contract to prepare and furnish premium catalogues in which certain articles should be listed, merely tending to prevent plaintiff from furnishing such catalogues and merchandise to certain parties in defendant's locality, was not in restraint of trade (162+887). Contracts, ¶117(2).

A covenant in a bill of sale of a transfer business not to engage in the same business in a certain city held not in restraint of trade (124-49, 144+415). Contracts, ¶117(5).

Acquiescence as barring right to appeal—After defendant, a foreign corporation, changed its plea of not guilty to violation of this section, and entered a plea of guilty, and paid the fine imposed without protest as to the amount, it could not appeal from the judgment of conviction (127-252, 149+286, Ann. Cas. 1916C, 618). Criminal Law, ¶1131(4).

8974. Domestic corporations to forfeit franchises—Foreign corporations—

The revision of this and the preceding section in 1905 changed the pre-existing statute, so as to make a penalty of forfeiture of the charter the exclusive punishment as to domestic corporations. A domestic corporation is not subject to the penalty imposed by § 8973, but only to the forfeiture of its charter as prescribed by this section (124-34, 144+417, 51 L. R. A. [N. S.] 244). Monopolies, ¶26(1).

8988. Milk, etc.—Discrimination between different localities prohibited—Evidence—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 (\$500), or by imprisonment in the county jail not to exceed six months.

Proof that any person, firm, co-partnership or corporation has paid a higher price for milk or cream in one locality than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of violation of this act. ('13 c. 230 § 1, amended '17 c. 337 § 1)

[8989—]1. **Monopolization of food products declared criminal conspiracy**—Any combination of persons, either as individuals, or as members or officials of any corporation to monopolize the markets for food products in this state or to interfere with or restrict the freedom of such markets, is hereby declared to be a criminal conspiracy. ('17 c. 381 § 1)

[8989—]2. **Same—Penalty**—Any person found guilty of violating this act shall be punished by a fine of not less than fifty dollars nor more than \$100, or imprisonment in the county jail for a period not to exceed ninety days. ('17 c. 381 § 2)

9010. Boarding moving engines or cars—

Cited (135-89, 160+204).

A person entering a train to assist an outgoing passenger to alight, and who attempts to leave the train while it is in motion, is not within the inhibition of this section (124-517, 145+746). Carriers, ☞333(5).

[9014—]1. **Rendition of "The Star Spangled Banner" when prohibited**—The playing, singing or rendering of the hymn commonly known and designated as The Star-Spangled Banner, in any public place or at any public entertainment, or in any theatre or motion picture hall, restaurant or café in the State of Minnesota, except as an entire and separate composition or number, without embellishments of national or other melodies, and the singing or playing of said hymn or any part thereof as a part or selection of a medley of any kind, and the playing of said hymn at or in any of the places mentioned, for dancing or as an exit march, is hereby prohibited. ('17 c. 247 § 1)

[9014—]2. **Owner of theatre, etc., forbidden to permit**—No owner, proprietor or manager of any theatre, moving picture hall, restaurant, café or other place within the State of Minnesota, where the public gathers, shall submit or allow anyone playing, singing or performing therein, to play, sing or render the said hymn in violation of the provisions of this act. ('17 c. 247 § 2)

[9014—]3. **Same—Penalty**—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. ('17 c. 247 § 3)

9019. Protection to motormen—

Cited (135-89, 160+204).

9020. Stealing railway tickets, etc.—

Cited (135-89, 160+204).

9021. Employee obtaining transportation with intent to defraud—

Cited (135-89, 160+204).

9025. Stealing from cars—

Cited (135-89, 160+204).

9030. "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 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, or any person engaged in soliciting, procuring or attempting to solicit or procure money or other thing of value by falsely pretending and representing himself to be blind, deaf; dumb, without arms or legs, or to be otherwise physically deficient or to be suffering from any physical defect or infirmity.

9. A person wandering about and lodging in taverns, groceries, ale-houses, outhouses, market places, sheds, stables, barns or other uninhabited buildings or in the open air and not giving a good account of himself.

10. Any person not blind, over sixteen years of age and who has not resided in the county in which he may be at any time for a period of six months prior thereto, and not having visible means to maintain himself, lives without employment or wanders about and begs, or goes from door to door or places himself in the streets, highways or public passages to beg or receive alms.

Every such person shall upon conviction thereof be punished by imprisonment not exceeding ninety (90) days or by a fine not exceeding one hundred dollars (\$100.00). (Amended '17 c. 292 § 1)

[9032—]1. **Itinerant persons forbidden to place animals or to camp on highways, when**—It shall be unlawful for any itinerant person or persons to hitch or turn loose on any public highway in this state any horses, cattle or other animals for the purpose of feeding the same or for the purpose of temporarily camping on such public highway for a period to exceed twelve hours and within six miles of the previous camping place of said person or persons. ('15 c. 279 § 1)

[9032—]2. **Same—Penalty for violation**—Any resident in this state may enter complaint before any court having jurisdiction against any person or persons violating this section and it shall be the duty of such court to issue a warrant for the arrest of such person or persons complained of, and have them brought forthwith before said court for examination, and if found guilty of such violation as charged, said person or persons shall be punished by a fine not exceeding fifty (\$50.00) dollars or by imprisonment in the county jail for not more than thirty days. ('15 c. 279 § 2)