Chapter 167

1957 REPLACEMENT PART

Crimes Against Morality and Decency

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SEX OFFENSES

167.005 Adultery. Any person who commits the crime of adultery shall be punished upon conviction by imprisonment in the penitentiary for not more than two years, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $200 nor more than $1,000.

167.010 Complaint needed for adultery prosecution; punishability of unmarried man. A prosecution for the crime of adultery may only be commenced upon the complaint of the husband or wife, or if the crime is committed with an unmarried female under the age of 20 years, upon the complaint of the wife, or of a parent or guardian of the unmarried female. The complaint shall be filed within one year from the time of committing the crime, or the time when the crime comes to the knowledge of such husband, wife, parent or guardian. When the crime of adultery is committed between a married woman and an unmarried man, the man shall be deemed guilty of adultery also, and be punished accordingly.

167.015 Lewd cohabitation. Any man and woman who lewdly or lasciviously cohabit or associate together when not married to each other, shall be punished upon conviction by imprisonment in the county jail for not less than one nor more than six months, or by a fine of not less than $50 nor more than $300.

167.020 Polygamy; divorcees and deserted spouses excepted. (1) Any person who while having a husband or wife living, marries another person, or lives and cohabits with another person as husband or wife, is guilty of polygamy, and shall be punished upon conviction by imprisonment in the penitentiary for not more than four years, or by imprisonment in the county jail for not less than six months nor more than one year, or by a fine of not less than $300 nor more than $1,000.

(2) This section does not extend or apply to any person whose husband or wife has voluntarily withdrawn and remained absent from such person for the period of seven years together, when the party marrying again does not know the other spouse was living within that time, nor to any person legally divorced from the bonds of matrimony.

167.025 Seduction; sufficiency of evidence; subsequent marriage as defense. (1) Any person who, under promise of marriage, seduces and has illicit connection with any unmarried female of previous chaste character, shall be punished upon conviction by imprisonment in the penitentiary for not more than five years, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $500 nor more than $1,000. A subsequent marriage of the parties is a defense to a violation of this section.

(2) Upon a trial for having seduced and had illicit connections with an unmarried female, the defendant cannot be convicted upon the testimony of the female injured, unless she is corroborated by other evidence tending to connect the defendant with the commission of the crime.

167.030 Fornication. Any male person over the age of 18 years who, without committing rape, carnally knows any female person of previous chaste and moral character, who is over the age of 16 years and under the age of 18 years and is not his lawful wife, shall be deemed guilty of fornication, and shall be punished upon conviction by a fine of not less than $50 nor more than $500, or by imprisonment in the county jail for not less than one month nor more than one year, or by imprisonment in the penitentiary for not more than five years.

167.035 Incest. Any persons, being within the degree of consanguinity within which marriages are prohibited by law, who intermarry or commit adultery or fornication with each other, such person or either of them shall be punished upon conviction by imprisonment in the penitentiary for not more than three years, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $200 nor more than $1,000.

167.040 Sodomy; proof needed. (1) Any person who commits sodomy or the crime against nature, or any act or practice of sexual perversity, either with mankind or beast, or sustains osculatory relations with the private parts of any person, or permits such relations to be sustained with his private parts, shall be punished upon conviction by imprisonment in the penitentiary for not more than 15 years.

(2) Proof of actual penetration into the

body is sufficient to sustain an indictment for the crime against nature.

167.045 Removal, detention or inducement of child with intent to commit certain sex offenses. (1) No person over the age of 16 years shall wilfully and wrongfully and forcibly take from any place, or wilfully and wrongfully and forcibly detain in any place, or wilfully and wrongfully induce or entice into any place of concealment or upon any type of conveyance, any child under the age of 16 years with the intent to commit with or upon such child any act punishable under ORS 163.210, 163.220, 163.270, 167.035 or 167.040.

(2) Violation of subsection (1) of this section is punishable, upon conviction, by imprisonment in the state penitentiary for a period not exceeding five years or for an indeterminate term not exceeding the natural life of such person. [1953 c.641 §§1, 7; 1955 c.636 §6]

167.050 Penalty for violation of ORS 163.210, 163.220, 163.270, 167.035, 167.040, 167.045, 167.145, 167.165 or 167.210 after previous violation of any of such statutes. Violation of ORS 163.210, 163.220, 163.270, 167.035, 167.040, 167.045, 167.145, 167.165 or 167.210, by any person who has previously been convicted of a violation of any one, or more than one, of those sections, is punishable, upon conviction, by imprisonment in the state penitentiary for an indeterminate term not exceeding the natural life of such person. [1953 c.641 §7; 1955 c.636 §7]

167.055 Jurisdiction of circuit courts over offenses against children under 16 punishable under ORS 167.035, 167.145, 167.165 or 167.210. The circuit courts of this state shall have exclusive original jurisdiction of all crimes involving offenses against children under 16 years of age punishable under ORS 167.035 and repeated offenses against children under 16 years of age, punishable under ORS 167.145, 167.165 or 167.210. [1955 c.636 §9]

167.060 to 167.100 [Reserved for expansion]

PROSTITUTION; INDECENT ACTS

167.105 Keeping bawdyhouse. Any person who keeps or sets up, or permits to be kept or set up, a house of ill-fame, brothel or bawdyhouse, for the purpose of prostitution, fornication or lewdness, in any house, room, shop, boat, ship, booth, or other place, building or vessel, of which he is the owner, lessor, lessee, or to the possession of which he is entitled, shall be punished upon conviction by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail for not less than 30 days nor more than one year.

167.110 Common fame as evidence of bawdyhouse; rights of lessor. In all prosecutions under ORS 167.105, common fame is competent evidence in support of the indictment. Whenever any lessee or occupant of any house is convicted of violating ORS 167.105, the lease or contract for the hiring or occupancy of the house shall, at the option of the lessor or owner, become void, and the lessor or owner shall thereupon be entitled to recover the possession of the premises, as in the case of a tenant holding over after the expiration of his term.

167.115 Placing wife in house of prostitution. Every man who by force, intimidation, threats, persuasion, promises or any other means, places or leaves, or procures any other person to place or leave, his wife in a house of prostitution, or connives at, or consents to the placing or leaving of his wife in a house of prostitution, shall be punished upon conviction by imprisonment in the penitentiary for not more than 10 years. In all prosecutions under this section a wife is a competent witness against her husband.

167.120 Living with, receiving earnings of, or soliciting for a prostitute. Any person who lives in or about a house of ill-fame, or habitually associates with or lives off of a common prostitute, or receives from a common prostitute any part or all of her earnings, or solicits or attempts to solicit any male person to have sexual intercourse with a prostitute, shall be punished upon conviction by imprisonment in the penitentiary for not more than 15 years. In all prosecutions under this section common fame is competent evidence in support of the indictment. [Amended by 1955 c.514 §1]

167.125 Procuring female to engage in prostitution. Any person who knowingly persuades, induces, entices or coerces or causes to be persuaded, induced, enticed, or coerced, or aids or assists in persuading, inducing, enticing, or coercing any female person to engage in the practice of prostitution or to go

from one place to another in this state for the purpose of prostitution, or who with the intent and purpose that such female shall engage in the practice of prostitution, whether with or without her consent, and who thereby knowingly causes or aids or assists in causing such female to be carried or transported as a passenger upon the line or route of any common carrier in this state, shall be punished upon conviction by a fine of not less than $100 nor more than $5,000, or by imprisonment in the penitentiary for not more than five years, or both.

167.130 Transporting female for prostitution purposes. Any person who knowingly transports or causes to be transported, or aids or assists in obtaining transportation for, or transporting within this state, any female person for the purpose of prostitution, or with the intent and purpose to induce, entice or compel such female to become a prostitute; or who knowingly procures or obtains, causes to be procured or obtained, or aids or assists in procuring or obtaining any ticket or any form of transportation or evidence of the right thereto, to be used by any female within this state in going to any place for the purpose of prostitution, or with the intent or purpose to induce, entice, or compel her to give herself up to the practice of prostitution, whereby any such female is transported within this state shall be punished upon conviction by a fine of not less than $100 nor more than $10,000, or by imprisonment in the penitentiary for not more than five years, or both.

167.135 Procuring or transporting female under 18 for prostitution purposes. Any person who knowingly persuades, induces, entices, or coerces any female person under the age of 18 years, with the purpose or intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution, or who in furtherance of such purpose knowingly induces or causes her to be carried or transported as a passenger within this state upon the line or route of any common carrier, shall be punished upon conviction by a fine of not less than $100 nor more than $10,000, or by imprisonment in the penitentiary for not more than 10 years, or both.

167.140 Sufficiency of female's testimony in prosecution for encouraging prostitution. Upon a trial for inveigling, enticing or taking away an unmarried female for the purposes of prostitution, the defendant cannot be convicted upon the testimony of the female injured unless she is corroborated by other evidence tending to connect the defendant with the commission of the crime.

167.145 Indecent exposure. Any person who wilfully and lewdly exposes his person or the private parts thereof in any public place, or in any place where there are present other persons to be offended or annoyed thereby, or takes any part in any model artist exhibition, or makes any other exhibition of himself to public view, or to the view of any number of persons, which is offensive to decency, or is adapted to excite vicious or lewd thoughts or acts, shall be punished upon conviction by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $50 nor more than $500.

167.150 Indecent or obscene materials; exploiting crime. Any person who:

(1) Imports, designs, copies, draws, photographs, prepares, publishes, sells, lends, gives away, distributes, shows or exhibits or has in his possession with intent to publish, sell, lend, give away, distribute, show or exhibit, any article or instrument of indecent or immoral use, or any obscene or indecent book, paper, writing, printed matter, picture, drawing, photograph or engraving; or

(2) Gives or publishes or causes to be given or published to any person, any written or printed notice or advertisement of or concerning any such article or instrument, or obscene or indecent article or thing; or

(3) Hires, uses, employs, or permits any person to sell, give away or distribute any such article or instrument, or obscene or indecent article or thing; or

(4) Prints, publishes, advertises, sells, lends, gives away or shows or has in his possession with intent to publish, advertise, sell, lend, give away or show, any book, paper or other publication that purports to relate or narrate the criminal exploits of any desperate or convicted felon, or any book, paper or other publication that contains accounts or stories of crime or lust or deeds of bloodshed; or

(5) Presents or exhibits in any public place, by way of show or drama or play, what purports to be the criminal exploits of any desperado or convicted felon,

shall be punished upon conviction by im-

prisonment in the county jail not more than six months or by a fine of not more than $500 or both.

167.152 Tie-in sales of indecent or obscene publications. Any person, firm, copartnership or corporation which as a condition to a sale or delivery for resale of any paper, comic book, book, magazine, periodical or publication, requires that the purchaser or consignee receive for resale any other article, paper, comic book, book, magazine, periodical or other publication reasonably believed by the purchaser or consignee to be obscene, lascivious, filthy or indecent is guilty of a misdemeanor. [1955 c.494 §1]

167.155 Riotous, indecent and obscene conduct or language at public resort. Any person who is guilty of any violent, riotous or disorderly conduct, or any obscene, immoral, indecent, lewd or lascivious act, or who uses any profane, abusive or obscene language upon any grounds used or kept as a watering place or place of public resort, or near or upon any public highway, or who is guilty of such conduct or act or use of such language in any house or building upon such grounds, shall be punished upon conviction by a fine not exceeding $500 or by imprisonment not to exceed six months, or both. Justices' courts, district courts and circuit courts have concurrent jurisdiction for violations of this section.

167.160 Enforcement of ORS 167.155; rights and powers of officers. The county court of any county within which any watering place or place of public resort is situated, upon the application of any owner or manager thereof, shall appoint one or more officers for the watering place or place of public resort, to enforce the provisions of ORS 167.155. Every officer so appointed has the powers and authority of a peace officer for such county, may make arrests for violations of ORS 167.155, and is entitled to the fees now allowed to a constable. However, an officer so appointed by the court shall not be entitled to or receive any fees or other compensation from the county for arrests made, or other services performed by him under the provisions of this section, except when the person arrested by him is convicted.

167.165 Interfering with privacy of another; jurisdiction of courts. (1) Any person, other than an officer performing a lawful duty, who enters, without permission of the owner or person entitled to possession thereof, upon land or into a building or part of a building not his own, with the intent to violate the privacy of any other person, and while so trespassing looks through, or attempts to look through, any window, door or transom of any building or part of a building used as a dwelling, shall be punished upon conviction by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $50 nor more than $1,000, or both.

(2) When any person is accused of such crime in a justice's court or in a district court, the court shall, on motion of the district attorney, at any time before trial, proceed to examine and dispose of the case as committing magistrate, either discharging the defendant, holding him to answer to the charge before the circuit court, or proceed with the trial of the case as in other cases over which such court has jurisdiction. If the defendant is convicted upon a trial in a justice's court, the justice shall not impose any greater punishment than imprisonment in the county jail for not to exceed three months or a fine of not to exceed $100, or both.

167.170 to 167.200 [Reserved for expansion]

CONTRIBUTING TO THE DELINQUENCY OF MINORS

167.205 Definitions for ORS 167.210 to 167.220 and 167.255 to 167.290. (1) As used in ORS 167.210 to 167.220, "person" includes parents, legal guardians or any other person having the care or custody of a child.

(2) As used in ORS 167.255 to 167.290, "cigarette" or "cigarettes" includes cigarettes, cigarette paper, cigarette wrapper, or any substitute therefor, or any paper or form prepared to be filled with smoking tobacco for cigarette use.

167.210 Causing or contributing to delinquency of child. When a child is a delinquent child as defined by any statute of this state, any person responsible for, or by any act encouraging, causing or contributing to the delinquency of such child, or any person who by threats, command or persuasion, endeavors to induce any child to perform any act or follow any course of conduct which would cause it to become a delinquent child, or any person who does any act which manifestly tends to cause any child to become a

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delinquent child, shall be punished upon conviction by a fine of not more than $1,000, or by imprisonment in the county jail for a period not exceeding one year, or both, or by imprisonment in the penitentiary for a period not exceeding five years.

167.215 Causing child to become or remain dependent. Any person who wilfully does any act which causes or tends to cause any child under the age of 18 years to become a dependent child, as defined by any statute of this state, or to live and conduct himself so as to be or remain a dependent child, shall be punished upon conviction by a fine of not more than $1,000, or by imprisonment in the county jail for a period not exceeding one year, or both.

167.220 Court may impose conditions and suspend sentence; jurisdiction of courts. (1) The court may impose conditions upon any person found guilty under ORS 167.210 and 167.215, and so long as he complies therewith to the satisfaction of the court, the sentence imposed may be suspended.

(2) Except as provided in ORS 3.130 and 46.092, county courts in their respective counties have concurrent jurisdiction with the circuit court in all prosecutions under ORS 167.210 and 167.215. [Amended by 1957 c.403 §8]

167.225 Taking away female under 16 without consent of parents. Any person who takes away any female under the age of 16 years from her father, mother, guardian or other person having the legal charge of her person, without the consent of such person, for the purpose of marriage, concubinage, or prostitution, shall be punished upon conviction by imprisonment in the penitentiary for not more than two years, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $100 nor more than $500.

167.230 Procuring female under 18 years for immoral purpose. Any person over the age of 16 years who solicits, entices, procures, or attempts to procure any child under the age of 18 years to carnally know or to have sexual intercourse with any person, or to enter any building, room or enclosure frequented by lewd and immoral persons, for any immoral purpose, shall be punished upon conviction by imprisonment in the penitentiary for not more than 20 years.

167.235 Employment of minors in dance halls. (1) Any person operating or conducting a public dance hall in this state, who employs or allows a minor under the age of 18 years to conduct or assist in conducting any public dance, or to assist in or furnish music for public dancing therein, shall be punished upon conviction by a fine of not less than $10 nor more than $100.

(2) Fines imposed under this section shall be paid into the school fund of the county wherein the offense was committed.

167.240 Visiting or inducing others to visit houses of prostitution. Any person who procures, requests, orders, or in any way induces any minor to go into or visit any house of prostitution, or any room or place inhabited or frequented by any prostitute, or used for purposes of prostitution, for any purpose whatever, or any minor who goes therein or visits thereat, under any pretext or for any purpose whatever, shall be punished upon conviction as follows:

(1) Minors by a fine not exceeding $100 or by incarceration for a period not exceeding six months in MacLaren School for Boys or Hillcrest School of Oregon.

(2) Corporations, by a fine of not less than $500 and not more than $1,000.

(3) Any other persons, by a fine of not less than $100 and not more than $250, or by imprisonment in the county jail for a period not exceeding one year, or both.

167.245 Furnishing tobacco to minors; effect of parent's or court's consent. Any person who sells, barters, trades, gives or in any manner furnishes to any minor under the age of 18 years, for his own consumption, any tobacco, cigars or cigarettes in any form, or any compound in which tobacco forms a component part, without the written consent or order of such minor's parent, guardian or custodian, shall be fined upon conviction not less than $5 nor more than $50. When such minor has no parent, guardian or custodian, consent may be given by the county court, sitting for the transaction of county business, upon proper application in the county in which the minor has his residence. [Amended by 1955 c.504 §1]

167.250 Use of tobacco by minor in public place. Any minor under the age of 18 years who smokes or in any way uses any cigar, cigarette or tobacco in any form in any public highway, street, place, square or resort, shall be fined upon conviction not less than $1 nor more than $10, or by im-

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prisonment for not more than two days for each offense.

167.255 Selling or giving cigarettes to minors. (1) Any corporation or person who, by himself or as the clerk, servant, employe or agent of any other person, directly or indirectly or by any pretense or device, sells, offers for sale, keeps for sale, exchanges, barters, disposes of or gives away any cigarette to any minor in this state, shall be punished upon conviction as follows:

(a) For the first offense, by a fine of not more than $100.

(b) For the second offense, by a fine of not more than $500 nor less than $25, or by imprisonment in the county jail not exceeding 30 days, or both.

(c) For the third or subsequent offense, a jail sentence of not to exceed 30 days, in addition to the fine imposed under paragraphs (a) and (b) of this subsection.

(2) This section shall not apply to the sales of jobbers doing an interstate business with customers outside of this state.

(3) Under subsection (1) of this section, the place of sale is the place where delivery of any cigarette is made in this state, or any station or other place within the state to which any person ships or conveys any cigarette for the purpose of delivery or carries the cigarette to a purchaser.

167.260 Minor smoking cigarettes; permitting minor to smoke in place of business. (1) Any minor who smokes, uses, or is in possession of any cigarette; or any minor using or being in possession of any cigarette and being asked by a parent, teacher, mayor, sheriff, deputy sheriff, police officer, constable, village marshal, or any other officer, to tell where or from whom such cigarette was obtained, who refuses to furnish such information; or any proprietor, clerk, assistant or employe of any place of business who permits minors to frequent such place of business while using or smoking any cigarette, shall be punished upon conviction by a fine of not more than $5 for each offense.

(2) As used in this section, "place of business" applies to any and all places such as shops, stores, factories, offices, theaters, recreation and dance halls, pool rooms, cafes, restaurants, hotels, lodging houses, street cars, interurban and passenger coaches or waiting rooms.

167.265 Duty of officer when minor found smoking cigarette. Any mayor, sheriff, deputy sheriff, police officer, constable, village marshal, or other officer, when he finds any minor smoking a cigarette or having a cigarette in his possession, who fails to immediately inquire of such minor where and of whom he obtained such cigarette, and upon failure of any such minor to give information when requested by such officer, fails to, without warrant, arrest the minor and take him before any court having jurisdiction of the offense, or who fails to immediately report information received from the minor concerning violation of ORS 167.255 to 167.280 to the district attorney of the county, upon conviction shall be fined not more than $50 nor less than $10.

167.270 Soliciting order for cigarettes from minor. Any person who solicits, takes or receives from any minor within this state, any order for any cigarette, or makes any contract for the sale of any cigarette to any minor, shall be punished upon conviction by a fine of not more than $100 nor less than $25.

167.275 Enforcement of ORS 167.255 to 167.280 by district attorney. Any district attorney or any prosecuting officer who fails, neglects or refuses faithfully to enforce and prosecute all persons violating ORS 167.255 to 167.280, shall be fined upon conviction not more than $500 nor less than $100, and such conviction shall be a forfeiture of his office. The court before which such conviction is had shall at once impose the fine and order the forfeiture in accordance with this section. Circuit courts have jurisdiction of the offenses defined in this section.

167.280 Duties of prosecuting attorney in enforcing cigarette laws. (1) If any prosecuting attorney or deputy prosecuting attorney is notified or has knowledge of, or reason to suspect any violation of any of the laws of this state relating to cigarettes, he shall diligently inquire into the facts of the violation. For such purpose, he may issue his subpena for such persons he has reason to believe may have information or knowledge of any violation of said law, to appear before him at a designated time and place, to be examined in relation thereto. Such subpena may be served by the sheriff or any constable of the county, and shall be served and returned in the same manner that subpenas are served and returned in criminal cases. Each witness shall be sworn to make

a true answer to each question propounded to him touching matters under investigation, and the testimony of such witness shall be reduced to writing and signed by the witness. For the purpose of this section, any prosecuting officer is authorized and empowered to administer oaths or affirmations to any witness appearing before him.

(2) Any person who disobeys a subpena issued under this section, or who refuses to be sworn by signing the testimony given by him, or to answer any question touching matters under investigation propounded by the prosecuting attorney, in such inquiry before him, shall be punished upon conviction by a fine of not more than $25 nor less than $10, or by imprisonment in the county jail for not more than 30 days, or both.

(3) If the testimony taken under subsection (1) of this section discloses that there is reasonable ground to believe that an offense has been committed, the prosecuting officer shall at once prosecute the persons suspected of committing the offense, either by bringing such testimony to the attention of the grand jury, or by filing it, together with his complaint or information, in a court of competent jurisdiction. The testimony, together with the information or complaint of the prosecuting officer, when sworn to by him upon information and belief, has the same effect as if such information or complaint had been verified positively. Upon the filing of the information or complaint, a warrant shall issue for the arrest of such persons, as in criminal cases.

167.285 Disposal of fines collected under ORS 167.255 to 167.280. All fines collected for violation of ORS 167.255 to 167.280 shall be paid to the county treasurer of the county in which the offense was committed, and shall be used for costs incurred in the enforcement of those statutes. The balance shall be used for the support of the common schools within the county. Prosecutions for violation of ORS 167.255 to 167.280 shall be before courts having competent jurisdiction in the county in which the violation was committed.

167.290 Jurisdiction of courts over prosecutions under ORS 167.255 to 167.280; construction of sections. Except as provided in ORS 167.275, justices of the peace, district courts, county courts and other courts having jurisdiction as justices of the peace, have concurrent jurisdiction with the circuit courts, of all prosecutions for violations of ORS 167.255 to 167.280. This section does not in any way deprive the juvenile court of the jurisdiction of offenders of juvenile age. The provisions of ORS 167.255 to 167.280 shall be liberally construed.

167.295 Permitting minors to play games of chance. Any person, being the owner, lessee, proprietor or employe of any cigar store, public card room, saloon, barroom, public billiard room, public pool room, soft drink establishment or other public place of amusement, who permits any minor to engage therein in any game of cards, billiards, pool, bagatelle, dice throwing or other game of chance, for amusement or otherwise, shall be punished upon conviction by a fine of not less than $25 nor more than $100.

167.300 Minor misrepresenting age in order to gamble. Any minor who represents and pretends to the owner, lessee, proprietor or employe of any place enumerated in ORS 167.295, that he is 21 years of age or older, for the purpose of inducing such person to permit him to engage in any of the games enumerated in ORS 167.295, shall be punished upon conviction by a fine of not less than $10 nor more than $100.

167.305 to 167.400 [Reserved for expansion]

LOTTERIES

167.405 Setting up or promoting lotteries. (1) Any person who promotes or sets up any lottery for money or other valuable thing, or disposes of any property of value, by way or means of lottery, or aids or is in any way concerned in setting up, managing, or drawing such lottery, or who in any house, shop, boat, shed or building owned or occupied by him or under his control, knowingly permits the setting up, management, or drawing of any lottery, or the sale of any lottery tickets, share of a ticket, or any writing, token, or other device purporting or intended to entitle the holder or bearer thereof, or any other person, to any prize or interest or share thereof, to be drawn in any lottery, shall be punished upon conviction by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $100 nor more than $1,000.

(2) Nothing contained in ORS 465.010 to 465.070 interferes with the duty of offi-

cers to arrest any person violating subsection (1) of this section or any Acts amendatory or supplementary thereof, and to take into possession all personal property used in such violation as provided by law.

167.410 Selling lottery tickets. Any person who sells, either for himself or another, or offers for sale, or has in his possession with intent to sell or offer for sale or exchange or negotiate, a ticket or share of a ticket in any lottery described in ORS 167.405, or any writing, token or other device mentioned in that section, shall be punished upon conviction by imprisonment in the county jail for not less than three months nor more than one year, or by a fine of not less than $50 nor more than $500.

167.415 Advertising lottery tickets. Any person who advertises the sale of any lottery ticket or share in such ticket, or any writing, token or other device mentioned in ORS 167.405, either by himself or another, or who in any way invites or entices, or attempts to invite or entice another to purchase or receive the same, or who sets up or exhibits any sign, symbol, or any emblem or other representation of a lottery, where such ticket, share thereof, writing, token or other device can be purchased or obtained, shall be punished upon conviction by imprisonment in the county jail for not less than one month nor more than six months, or by a fine of not less than $20 nor more than $200.

167.420 False or fictitious lottery. Any person who makes, sells, offers for sale, or has in his possession with intent to sell, exchange or negotiate, either for himself or another, any false or fictitious lottery ticket or share thereof, or any writing, token or other device mentioned in ORS 167.405, in any pretended or fictitious lottery, knowing the same to be false or fictitious, or receives any money or other thing of value for any such ticket or share thereof, or for any such writing, token or other device, purporting that the owner, holder or bearer thereof shall be entitled to receive any prize or any share of any prize, or anything of value that may be drawn in the lottery, knowing the lottery to be false or fictitious, shall be punished upon conviction by imprisonment in the penitentiary for not more than three years.

167.425 Proof necessary to overcome presumption of falsity. Upon the trial of an indictment for any of the crimes defined in ORS 167.420, any ticket or share of a ticket, or any writing, token or other device therein mentioned, which the defendant made, sold, offered for sale, or had in his possession with intent to sell, or for which he received any money or other valuable thing, is deemed to be false, spurious or fictitious, unless he proves it to be true and genuine and to have been duly issued by authority of law, and that the lottery was at the time existing and undrawn, and the ticket, share thereof, or writing, token or other device, was issued by lawful authority and binding upon the person who issued it.

167.430 Punishment for second conviction; forfeitures. (1) Any person, who is convicted of a crime defined in ORS 167.405 and 167.410, who is later convicted of the same or any other crime therein defined, shall be punished by imprisonment in the penitentiary for not more than three years.

(2) All sums of money and every other valuable thing drawn as a prize in any lottery or pretended lottery, by any person within this state, are forfeited to the use of the state, and may be sued for and recovered by a civil action.

(3) Nothing contained in ORS 465.010 to 465.070 shall interfere with the duty of officers to take possession of property as provided by subsection (2) of this section.

167.435 to 167.500 [Reserved for expansion]

FORBIDDEN GAMES AND GAMBLING DEVICES

167.505 Conducting or playing forbidden games. (1) Every person who deals, plays, carries on, opens or causes to be opened, or who conducts either as owner, proprietor or employe, whether for hire or not, any game of faro, monte, roulette, rouge et noir, lansquenet, rondo, vingt-et-un or twenty-one, poker, draw poker, brag, bluff, thaw or any banking or any other game played with cards, dice or any other device, whether played for money, check, credits or any other representative of value, shall be punished upon conviction by a fine of not more than $500, and shall be imprisoned in the county jail, one day for each $2 of the fine and costs, until such fine and costs are paid, but not to exceed one year.

(2) Nothing contained in ORS 465.010 to 465.070 shall interfere with the duty of of-

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ficers to arrest any person violating this section or any Acts amendatory or supplementary thereof and to take into possession all personal property used in such violation as provided by law.

167.510 Permitting gambling on premises. Any person who permits any of the acts or things made punishable by ORS 167.505 to be done or carried on in any house, room, shop, building, boat, booth, garden, or other place of which he is the owner, or to the possession of which he is entitled, shall be punished upon conviction by a fine of not more than $500, and imprisoned in the county jail until such fine is paid at the rate of $2 per day.

167.515 Duty of officers to enforce gambling laws. Any district attorney, sheriff, constable, city or town marshal or police officer who refuses or wilfully neglects to inform against and diligently prosecute all persons who they have reasonable cause to believe are guilty of a violation of ORS 167.505, 167.510 and 91.420, shall be punished upon conviction by a fine of not less than $50 nor more than $500, and the court shall declare the office or appointment held by such officer vacant for the balance of his term.

167.520 Self-incrimination by witnesses to gambling. No person, otherwise competent as a witness under the laws of this state, shall be disqualified from testifying concerning the offenses mentioned in ORS 167.505 to 167.515, 167.525 and 91.420 on the ground that his testimony may criminate himself. Such testimony shall be reduced to writing, and no indictment or prosecution shall afterwards be brought against him for the particular offense concerning which he testified as a witness.

167.525 Witness failing to appear at gambling trial. Any person summoned as a witness on the part of the prosecution in an action for violation of ORS 167.505 to 167.515 or 91.420, who fails or refuses to attend at the time fixed for trial, without a reasonable excuse, shall be punished upon conviction by a fine of not less than $50 nor more than $200, or by imprisonment in the county jail for not less than 25 days nor more than three months, or both.

167.530 Recovery of gambling fines. All fines and forfeitures under ORS 167.505 to 167.525 and 91.420 shall be recovered by an action at law brought in the name of the State of Oregon. All such fines and forfeitures, except costs, shall be paid into the county treasury, and constitute a part of the school fund.

167.535 Operating or using a slot machine. Any person, firm or corporation who possesses, sets up, conducts, maintains, operates, or is in control of the operation, either as owner, proprietor, lessee, employe or agent, or plays or uses any nickel-in-the-slot machine or other device of like character, which operates as described in this section and which may or may not indicate before the deposit of a coin what it will vend or dispense, shall be punished upon conviction by a fine of not less than $10 nor more than $100, and in default of payment of the fine shall be imprisoned in the county jail one day for each $2 thereof:

(1) Upon deposit therein of a coin, slug, token or other thing representative of value, the machine may vend or dispense any merchandise, money, check, token, slug, credit or other representative of value or evidence of winning in varying quantities or values, depending upon chance.

(2) In exchange for a deposit therein, there may be received at occasional or uncertain intervals or in varying quantities or value, from time to time, depending upon chance, any money, check, slug, token, credit or other representative of value or evidence of winning which:

(a) May be exchanged or redeemed for anything of value.

(b) May be deposited in such machine or device for further operation or play with the chance of winning or receiving additional merchandise, money, check, token, slug, credit or other representative of value or evidence of winning.

167.540 Seizure and destruction of slot machines. All machines or devices mentioned and described in ORS 167.535 are public nuisances. The sheriff shall summarily seize any such machine or device, or operating part thereof, found in the possession of any person violating ORS 167.535, and hold it subject to the order of the justice or circuit court having jurisdiction. Whenever it appears to the court that the machine or device so seized has been possessed, set up, conducted, maintained, operated or controlled in violation of ORS 167.535, the court shall adjudge forfeiture thereof and shall order the

sheriff to destroy the machine or device and deliver any coins taken therefrom to the county treasurer, who shall deposit the same in the general fund. The seizure of the machine or device or operating part thereof constitutes sufficient notice to the owner or person in possession thereof. The sheriff shall make return to the court showing that he has complied with such order.

167.545 Possession of slot machine as evidence of operating it. In all prosecutions under ORS 167.535 for conducting, maintaining or operating any such machine or device, proof of the possession of the machine or device, or of permitting it to remain in any public place owned or controlled by the person so prosecuted, convenient for use, is prima facie evidence against such person of violation of ORS 167.535.

167.550 Disposal of fines and jurisdiction of courts for offenses under ORS 167.535. (1) One-half of the fine imposed in any conviction under ORS 167.535 shall be paid to the private prosecutor in the case, and the other half shall be paid into the county treasury of the county wherein the conviction was secured for the benefit of the school fund.

(2) Justices of the peace have concurrent jurisdiction with the circuit court in all proceedings under ORS 167.535 and 167.540.

167.555 Possessing or operating games of chance; duty of officers. (1) Regardless of whether their operation requires an element of skill on the part of a player, all games of chance such as slot machines, dart games, pin ball games, or similar devices or games, when operated or played for a profit, either in cash, merchandise or other article of value, hereby are declared unlawful, and their licensing is prohibited.

(2) Any person who possesses, displays, operates or plays any such game or device is punishable upon conviction by a fine of not more than $250 or by imprisonment in the county jail for not more than 90 days.

(3) All sheriffs, state or municipal police officers, constables and city or town marshals shall confiscate and, without delay, destroy all games possessed, displayed, operated or played in violation of subsection (1) of this section.

167.560 to 167.600 [Reserved for expansion]

NONSUPPORT; PROMOTING DIVORCE OR ADOPTION

167.605 Failure to provide for wife or child. Any person who, without just or sufficient cause, deserts or abandons his wife, or who deserts or abandons any of his or her minor female children under the age of 18 years or minor male children under the age of 16 years, without providing necessary and proper shelter, food, care or clothing for any of them, or who, without just or sufficient cause, fails or neglects to support his wife, or such minor male or female child or children shall be punished upon conviction by confinement in the penitentiary for not more than one year or by imprisonment in the county jail for not more than one year. If any person leaves the state and fails, for the period of 60 days, to provide necessary and proper shelter, food, care or clothing for his wife or children, who come within this section, it is prima facie evidence that such person deserted or abandoned his wife, children, or both.

167.610 Sentence suspended if bond furnished. If at any time before sentence, a person violating ORS 167.605 enters into a bond to the people of this state in such penal sum and with such sureties as the court may fix, conditioned that he will furnish his wife and children with necessary and proper shelter, food, care and clothing, the court may suspend sentence.

167.615 Noncompliance with, and forfeiture of, undertaking. (1) Upon failure of a person to comply with an undertaking furnished in accordance with ORS 167.610, he may be ordered to appear before the court and show cause why sentence should not be imposed; whereupon the court may pass sentence or, for good cause shown, modify the order and take a new undertaking and further suspend sentence.

(2) In case of forfeiture of a recognizance or bond furnished in accordance with ORS 167.610, the sum recovered shall be paid in whole to the State of Oregon.

167.620 Public work by persons convicted of nonsupport. Any person convicted under ORS 167.605 may be compelled to work upon the public roads or any other public work.

167.625 Special rules of evidence for nonsupport actions. In all proceedings under ORS 167.605:

(1) The fact that a man lives and cohabits with a woman, or holds a woman out as his wife, is prima facie evidence that he is her husband.

(2) The fact that a child was born to a woman during the time a man lived and cohabited with her, or held her out as his wife, is prima facie evidence that he is the father of the child. The provisions of this section do not exclude any other legal evidence tending to establish the relation of husband or father.

(3) No provisions of law prohibiting the disclosure of confidential communications between husband and wife apply. A wife is a competent and compellable witness.

167.630 Remarriage or birth of issue no defense for nonsupport. It is no defense against a charge of nonsupport of any child that the father has contracted a subsequent marriage, that issue has been born of the subsequent marriage, or that he is the father of issue born of any prior marriage.

167.635 Child failing to support indigent parent; payment of fine to parent. (1) Every person over the age of 21 years who, having the ability so to do, fails and neglects to support his or her indigent parent, shall be punished upon conviction by imprisonment in the county jail for not more than one year or by a fine not exceeding $1,000, or both.

(2) All fines, penalties and forfeitures imposed and collected under subsection (1) of this section or under the provisions of any law relating to indigent parents, may be directed by the court to be paid in whole or in part to the indigent parent or such parent's guardian.

167.640 Promoting divorce. Whoever advertises, prints, publishes, distributes or circulates, or causes to be advertised, printed, published, distributed or circulated, any circular, pamphlet, card, handbill, advertisement, printed paper, book, newspaper, or notice of any kind, offering to procure or obtain, or to aid in procuring or obtaining any divorce, or the severance, dissolution or annulment of any marriage, or offering to engage, appear or act as attorney, counsel or referee, in any suit for alimony, separate maintenance or divorce, or the severance, dissolution or annulment of any marriage in this state or elsewhere, shall be punished upon conviction by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail for not more than six months, or both. This section does not apply to the printing or publishing of any notice or advertisement required or authorized by any law of this state.

167.645 Promoting adoption of child by advertising. Any person who publishes or causes to be published any advertisement to the effect that any child is available or is offered for adoption, or publishes or causes to be published any advertisement seeking or soliciting any child for adoption, shall be punished upon conviction by a fine of not more than $500.

167.650 to 167.700 [Reserved for expansion]

MISCELLANEOUS CRIMES AGAINST MORALITY AND DECENCY

167.705 Exhibiting person in trance. Any person who in any manner exposes to public view any person in a state of trance, sleep or entire or partial unconsciousness, which was induced by hypnotism, mesmerism, or any other form of the exertion of the will power or suggestion of another person over such subject, or consents to or aids or abets such exhibition either in person or through his agents, servants or otherwise, or hypnotizes any person for the purpose of being so exposed to view, shall be punished upon conviction by a fine of not less than $100 nor more than $1,000, or by imprisonment in the jail of the county where the offense was committed for a term equal to one day for each $2 of the fine, or both.

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167.710 Exhibiting deformed person. Any person who exhibits or causes to be exhibited in any public place within this state, any deformed person, for reward or gratuity, shall be punished upon conviction for each offense by a fine of not less than $25 nor more than $50, or by imprisonment in the county jail for not less than one nor more than three months, or both. Justices' courts shall have jurisdiction of actions brought under this section.

167.715 Sponsoring or participating in prize fight. Except as provided in ORS chapter 463, any person who arranges, attempts to arrange, offers to arrange, engages or offers to engage in a prize fight to be fought in this state, or otherwise, in any manner, either as principal, second, assistant, stakeholder, trainer, referee, aider, abettor, solicitor or agent, whether the fight takes place or not, shall, upon conviction, be imprisoned in the penitenti-

ary not more than five years, or fined not less than $1,000 nor more than $5,000. Each peace officer and justice of the peace shall see that this section is enforced. When any of said officers have reason to believe that this section is being violated, he shall institute proceedings against any party so suspected.

167.720 Bribing participant in athletic contest. Any person who gives, offers or promises, or attempts to give or offer any money, bribe, reward or thing of value to any professional, semiprofessional or amateur participant, contestant or player in any game of basketball, baseball, football, hockey, bowling or tennis, or any contest of ability or skill in archery, skating, marksmanship, swimming, diving, running, jumping or any other athletic contest or game of any kind whatever, or any horse or dog race, with the intent, understanding or agreement that the participant, contestant or player shall not use his best efforts to win therein, or to so conduct himself therein that his opponent or the opposing team is assisted or enabled to win, is guilty of a felony and shall be punished upon conviction by imprisonment in the penitentiary for a period not exceeding five years or by a fine of not more than $5,000, or both.

167.725 Acceptance of bribe by athlete. Any person who accepts or agrees to accept any money, bribe, reward or thing of value with the intent, understanding or agreement that he will not use his best efforts to win any contest, game, athletic meet, or tournament mentioned in ORS 167.720 or any other similar contest or game, whether or not specifically above named, in which he is participating or is about to participate, or that he will so conduct himself in such game, contest or athletic event that his opponent or the team opposing the team of which he is a member shall thereby be assisted or enabled to win therein, is guilty of a felony and shall be punished upon conviction by imprisonment in the penitentiary for a period not exceeding five years or by a fine of not more than $5,000, or both.

167.730 Bribery of athletic coaches and officials. Any person who gives, offers, promises or attempts to give any money, bribe, reward or thing of value to any person who is officiating in, managing, coaching or directing any athletic team, club, contest, game or event, or any horse or dog race, or who is about to officiate in, manage, coach or direct any such game, contest, team or club, with the intention, agreement or understanding that such person shall corruptly or dishonestly officiate in, manage, coach or direct the game or contest or the players, contestants or participants therein, with the intention or purpose that the result thereof will be affected or influenced thereby, is guilty of a felony and shall be punished upon conviction by imprisonment in the penitentiary for a period not exceeding five years or by a fine of not more than $5,000, or both.

167.735 Acceptance of bribe by coach or official. Any person who, as umpire, manager, coach, director or other official of any athletic team, club, game, contest, event, meet or tournament, receives, agrees to receive or attempts to receive any money, bribe, reward or thing of value, with the understanding or agreement that such official shall corruptly conduct himself in such capacity or shall corruptly officiate in, manage, coach or direct such team, club, or any player therein, or shall corruptly officiate in any such athletic event, game or contest, with the intention or purpose that the result of the game, series of games, contests, events or tournaments, will be affected or influenced thereby, is guilty of a felony and shall be punished upon conviction by imprisonment in the penitentiary for a period not exceeding five years or by a fine of not more than $5,000, or both.

167.740 Cruelty to animals. (1) Any person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills, or causes or procures such cruel treatment of any animal, or who, having the charge of or custody of any animal as owner, or otherwise, inflicts cruelty upon the animal, shall, upon conviction, be punished for every such offense by imprisonment in the county jail not exceeding 60 days, or by a fine not exceeding $100, or both.

(2) Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the animal when unfit for labor, or cruelly abandons the animal, or carries or causes the animal to be carried in or upon any vehicle or otherwise, in a cruel, inhuman manner, or knowingly or wilfully authorizes or permits the animal

to be subjected to torture, suffering, or cruelty of any kind, shall be punished for each and every offense in the manner provided in subsection (1) of this section.

(3) The dehorning of cattle or the docking of horses or sheep, as commonly practiced by stockmen, is not a violation of this section.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel