Chapter 167

1965 REPLACEMENT PART

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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(2) This section does not extend or apply to any person whose husband or wife has voluntarily withdrawn and remained absent from such person for the period of seven years together, when the party marrying again does not know the other spouse was living within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, or 167.045, after previous violation of any of such statutes. (1) Except as provided in subsection (2) of this section, any person convicted of a violation of that part of ORS 163.210 relating to forcible ravishment and ORS 163.220, 163.270, 167.035, 167.040 or 167.045 who has previously been convicted of a violation of any one, or more than one, of those sections, or who has previously been convicted in a court of any other state or of the United States of a crime which, if committed in this state, would be a violation of any one of those sections, shall be sentenced to imprisonment in the state penitentiary for an indeterminate term not exceeding the natural life of such person.

(2) Conviction of a violation of ORS 163.270 shall be considered a conviction for purposes of subsection (1) of this section only when the conviction has been or is for assault with intent to commit rape.
[1953 c.641 §7; 1955 c.636 §7; 1963 c.353 §1]

167.055 Jurisdiction of circuit courts over offenses against children under 16. Notwithstanding any city charter, ordinance or statute conferring jurisdiction in criminal cases on municipal courts or statutes conferring jurisdiction in criminal or quasi-criminal cases on justice of peace courts and district courts, in all cases of offenses against children under 16 years of age the circuit courts of this state shall have exclusive original trial jurisdiction except in those cases where the defendant is subject to the exclusive original jurisdiction of the juvenile court or domestic relations court.
[1955 c.636 §9; 1963 c.513 §1]

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 [Repealed by 1961 c.579 §2]

167.151 Disseminating obscene matter. (1) No person shall knowingly disseminate obscene matter. A person disseminates obscene matter if he exhibits, sells, delivers or provides, or offers or agrees to exhibit, sell, deliver or provide, or has in his possession with intent to exhibit, sell, deliver or provide any obscene writing, picture, motion picture, device, record, material or other representation or embodiment of the obscene.

(2) As used in subsection (1) of this section, matter is obscene if, considered as a whole, its predominant theme appeals to prurient interest and if it is patently offensive and goes substantially beyond the customary limits of candor in describing or representing such matter with reference to ordinary persons.

(3) In any prosecution for an offense under this section, evidence shall be admissible, as relevant to a determination of

whether or not the predominant theme of the matter appeals to prurient interest, to show artistic, literary, scientific or educational merit of the matter.

(4) In any prosecution for a violation of this section, it shall be relevant on the issue of knowledge to prove the advertising, publicity, promotion, method of handling or labeling of the matter, including any statement on the cover or back of any book or magazine.

(5) Violation of subsection (1) of this section is punishable by imprisonment in the county jail for not more than six months, or a fine of not more than $1,000, or both.
[1961 c.579 §1; 1963 c.480 §1]

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 [Repealed by 1961 c.503 §3]

167.160 [Repealed by 1961 c.503 §3]

167.165 [Repealed by 1963 c.340 §1 (ORS 167.170 enacted in lieu of ORS 167.165)]

167.170 Invading privacy of another by peeping or peering. Any person, other than a police officer engaged in the lawful pursuit of his official duties, who knowingly trespasses upon the premises of another and while so trespassing peeps or peers through any door, window, transom or other aperture of any dwelling or other structure upon such premises, with intent to invade the privacy of any lawful occupant thereof, shall be guilty of a misdemeanor.
[1963 c.340 §2 (enacted in lieu of ORS 167.165)]

167.175 to 167.200 [Reserved for expansion]

CONTRIBUTING TO THE DELINQUENCY OF MINORS

167.205 Definition for ORS 167.210 to 167.220. 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.
[Amended by 1961 c.333 §1]

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 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. 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.
[Amended by 1957 c.403 §8; 1961 c.261 §2]

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 child 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. 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, shall be fined upon conviction not less than $5 nor more than $50.

[Amended by 1955 c.504 §1; 1959 c.322 §1]

167.250 Use of tobacco by minor in public place; permitting minor to frequent place of business while smoking. Any minor under the age of 18 years who smokes, uses, or is in possession of any cigar, cigarette, or tobacco in any form in any public highway, street, or place; or any proprietor, clerk, assistant or employe of any place of business who permits any minor under 18 years of age to frequent such place of business while such minor is using or smoking any cigar, cigarette or tobacco in any form, shall be punished upon conviction by a fine of not more than $5 for each offense, or by imprisonment for not more than two days for each offense.

[Amended by 1959 c.322 §2]

167.255 [Repealed by 1959 c.322 §3]

167.260 [Repealed by 1959 c.322 §3]

167.265 [Repealed by 1959 c.322 §3]

167.270 [Repealed by 1959 c.322 §3]

167.275 [Repealed by 1959 c.322 §3]

167.280 [Repealed by 1959 c.322 §3]

167.285 [Repealed by 1959 c.322 §3]

167.290 [Repealed by 1959 c.322 §3]

167.295 Playing of billiards, pool and games of chance by minors. (1) As used in this section, "recreational facility" means an area, enclosure or room in which facilities are offered to the public to play billiards or pool for amusement only and:

(a) Which is clean, adequately lighted and ventilated.

(b) In which no alcoholic liquor is served.

(c) Access to which does not require passing through a room where alcoholic liquor is served.

(d) Which is in compliance with all applicable laws.

(2) 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. However, the owner, lessee, proprietor or employe of a recreational facility may permit a minor to play billiards or pool in such a facility.

[Amended by 1963 c.314 §1]

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 officers 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 Forfeiture of prizes. (1) 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.

(2) 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 (1) of this section.
[Amended by 1961 c.648 §8]

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.

(2) Nothing contained in ORS 465.010 to 465.070 shall interfere with the duty of officers 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.
[Amended by 1959 c.530 §3]

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.
[Amended by 1959 c.530 §4]

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 more than $100:

(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.
[Amended by 1959 c.530 §5]

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 complainant 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.
[Amended by 1959 c.426 §8]

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 children, born in or out of wedlock, under the age of 18 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 any such minor children, shall be punished upon conviction by confinement in the penitentiary for not more than five years 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.
[Amended by 1963 c.201 §1]

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 more than $1,000.

[Amended by 1959 c.530 §6]

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 penitentiary 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 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) Every owner or person having the charge or custody of any dog, cat, household pet or horse, who deprives such dog, cat, household pet or horse of necessary and adequate food, drink, air, light, space, shelter and reasonable protection from the weather, shall be punished for each and every offense in the manner provided in subsection (1) of this section.

(4) The dehorning of cattle or the docking of horses or sheep, or any other practice of good livestock husbandry, is not a violation of this section.

(5) A certification by a licensed Oregon veterinarian that the subject animal was examined immediately following the time of the charge and found to be in good condition shall be an absolute defense to any charge made under subsection (3) of this section or any charge that the animal was deprived of necessary sustenance or cruelly driven or worked when unfit for labor.

[Amended by 1965 c.370 §1]

167.745 Abandonment of domestic animal. Any person who wilfully abandons or deserts a dog, cat or other domestic animal shall be punished upon conviction by a fine of not more than $500.

[1959 c.200 §1]

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 November 15, 1965.

Sam R. Haley
Legislative Counsel