

ALABAMA

TITLE 8. COMMERCIAL LAW AND CONSUMER PROTECTION

CHAPTER 1. CONTRACTS

ARTICLE 8. GAMING AND WAGERING

Section 8-1-1

Contracts restraining business void; exceptions.

(a) Every contract by which anyone is restrained from exercising a lawful profession, trade, or business of any kind otherwise than is provided by this section is to that extent void.

(b) One who sells the good will of a business may agree with the buyer and one who is employed as an agent, servant or employee may agree with his employer to refrain from carrying on or engaging in a similar business and from soliciting old customers of such employer within a specified county, city, or part thereof so long as the buyer, or any person deriving title to the good will from him, or employer carries on a like business therein.

(c) Upon or in anticipation of a dissolution of the partnership, partners may agree that none of them will carry on a similar business within the same county, city or town, or within a specified part thereof, where the partnership business has been transacted.

(Code 1923, §§6826, 6827, 6828; Acts 1931, No. 546, p. 647; Code 1940, T. 9, §§22, 23, 24.)

Section 8-1-2

Written contract not expressing parties' intent may be revised.

When, through fraud, a mutual mistake of the parties or a mistake of one party which the other at the time knew or suspected, a written contract does not truly express the intention of the parties, it may be revised by a court on the application of the party aggrieved so as to express that intention, so far as it can be done without prejudice to the rights

acquired by third persons in good faith and for value.

(Code 1923, §6825; Code 1940, T. 9, §59.)

Section 8-1-3

Receipt or acknowledgment for collateral required.

(a) All banking, insurance and other corporations, private bankers, brokers and other persons engaged in the business of making discounts or lending money, or taking or receiving a collateral for a loan or discount, must give to the borrower, or to his agent or attorney, if demanded, a receipt or acknowledgment in writing designating or describing the collateral taken or received and stating the character of the debt, the time of its maturity and amount for the payment of which such collateral is intended as security.

(b) If negotiable bonds are taken or received as collateral, the receipt or acknowledgment must state the series number thereof if such bonds are numbered.

(Code 1886, §1785; Code 1896, §946; Code 1907, §3301; Code 1923, §6743; Code 1940, T. 9, §9.)

Section 8-1-4

Reimbursement for certain federal manufacturer's excise taxes; option to tender payment one business day before remittance due to Internal Revenue Service; notification and security; applicability.

(a) A party to a contract required to reimburse another party to the contract for the federal manufacturer's excise tax levied pursuant to Sections 4081 to 4083, inclusive, and Section 4091 of Title 26 of the United States Code, whether as a separate item or as a part of the price, may tender payment for the taxes one business day prior to the time that the other party is required to remit the taxes to the United States Internal Revenue Service.

(b) If a party elects to make payment pursuant to subsection (a), the party to which the payment is owed may demand security for the payment of the taxes in proportion to the amount the taxes represent compared to the security demanded on

the contract as a whole. The other party may not change the payment terms of the contract without a valid business reason other than the exercise of the option to be made by electronic transfer of funds.

(c) The party exercising the option in subsection (a) shall notify the other party in writing of the intent to exercise the payment option and the effective date of the exercise which shall not be earlier than 30 days after the notice of intent is received or the beginning of the next federal tax quarter, whichever is later.

(d) This section shall apply to all contracts existing on June 1, 1996 in which a reimbursement for taxes due has not been made, and to all other contracts entered into or renewed after June 1, 1996. Additionally and specifically, this section shall also apply to contracts arising from daily wholesale price offers which are accepted or rejected by the acceptance or rejection of products at such stated prices. Each daily price offering is a new offer and each purchase of product at a given price offer creates a new contract to which this section applies.

(e) The exercise of an option pursuant to subsection (a) shall not relieve the party of the obligation to make the reimbursement as provided for in the contract but shall affect only the timing of when that reimbursement shall be tendered.

(Acts 1996, No. 96-408, p. 516, §1.)

TITLE 10. CORPORATIONS, PARTNERSHIPS AND ASSOCIATIONS

CHAPTER 11. LIABILITY OF OFFICERS OF NONPROFIT ORGANIZATIONS

Section 10-11-2

Definitions.

The following terms shall have the following respective meanings for the purposes of this chapter:

(1) Qualified entity.

a. Any not-for-profit corporation, association or organization which is exempt from federal income taxation

under Section 501(c) of the Internal Revenue Code of 1954, as amended;

b. Any not-for-profit corporation, association or organization which is organized pursuant to Section

10-3A-1, et seq.;

c. Any organization organized under Sections 22-51-1, 22-51-2, 22-51-3, 22-51-4, 22-51-5, 22-51-6,

22-51-7, 22-51-8, 22-51-9, 22-51-10, 22-51-11, 22-51-12, 22-51-13, and 22-51-14;

d. Any self-insured fund established pursuant to Section 11-26-1, 11-26-2, 11-30-2 or 25-5-9, provided,

however this chapter shall not apply to any self-insured employer operating under Section 25-5-8; and

e. Any board, authority or commission the members of which are appointed by the governing body or bodies

of any county or municipality, or by the Governor or other constitutional officer or member of the Legislature

pursuant to legislative or constitutional authorization, or the members of which are constitutionally or

legislatively delegated.

(2) Officer.

Any officer, director, trustee or member of the governing body of a qualified entity who does not receive

compensation for serving in such capacity. A per diem amount of not more than $300.00 per day and actual,

reasonable, and necessary expenses shall not constitute compensation for the purposes of this chapter. Provided,

however, that the immunity granted herein shall not extend to officers and directors of any board, authority or

commission dealing with pari-mutuel betting, gambling or games of chance.

(Acts 1987, No. 87-706, §2.)

TITLE 13A. CRIMINAL CODE

CHAPTER 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY

ARTICLE 1. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

Section 13A-11-9

Loitering.

(a) A person commits the crime of loitering if he:

(1) Loiters, remains or wanders about in a public place for the purpose of begging; or

(2) Loiters or remains in a public place for the purpose of gambling; or

(3) Loiters or remains in a public place for the purpose of engaging or soliciting another person to engage in

prostitution or deviate sexual intercourse; or
(4) Being masked, loiters, remains or congregates in a public place; or
(5) Loiters or remains in or about a school, college or university building or grounds after having been told to leave by any authorized official of such school, college or university, and not having any reason or relationship involving custody of or responsibility for a pupil or any other specific, legitimate reason for being there, and not having written permission from a school, college or university administrator; or
(6) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services;
or
(7) Loiters or remains in any place with one or more persons for purpose of unlawfully using or possessing a dangerous drug.

(b) A person does not commit a crime under subdivision (a)(4) of this section if he is going to or from or staying at a masquerade party, or is participating in a public parade or presentation of an educational, religious, or historical character or in an event as defined in subdivision (1) of Section 13A-11-140.

(c) "Deviate sexual intercourse" in subdivision (a)(3) of this section is defined as in subdivision (2) of Section 13A-6-60.

(d) "Dangerous drug" in subdivision (a)(7) of this section means any narcotic, drug or controlled substance as defined in Chapter 2 of Title 20 of this Code and any schedule incorporated therein.

(e) Loitering is a violation.

(Acts 1977, No. 607, p. 812, §5540.)

ARTICLE 3. OFFENSES RELATING TO FIREARMS AND WEAPONS

Section 13A-11-84

Penalties; seizure and disposition of pistols involved in violations of certain sections.

(a) Every violation of subsection (a) of Section 13A-11-72 or of Sections 13A-11-81 or 13A-11-82 shall be punishable by imprisonment for not more than five years. Every violation of subsection (b) of Section 13A-11-72 or of Sections

13A-11-73, 13A-11-74 and 13A-11-77 through 13A-11-80 shall be punishable by imprisonment for any term less than one year or by a fine of not more than \$500.00, or both. The punishment for violating Section 13A-11-78 or 13A-11-79 may include revocation of license.

(b) It shall be the duty of any sheriff, policeman or other peace officer of the State of Alabama, arresting any person charged with violating Sections 13A-11-71 through 13A-11-73, or any one or more of said sections, to seize the pistol or pistols in the possession or under the control of the person or persons charged with violating said section or sections, and to deliver said pistol or pistols to one of the following named persons: if a municipal officer makes the arrest, to the city clerk or custodian of stolen property of the municipality employing the arresting officer; if a county, state or other peace officer makes the arrest, to the sheriff of the county in which the arrest is made. The person receiving the pistol or pistols from the arresting officer shall keep it in a safe place in as good condition as received until disposed of as hereinafter provided.

Within five days after the final conviction of any person arrested for violating any of the above-numbered sections, the person receiving possession of the pistol or pistols, seized as aforesaid, shall report the seizure and detention of said pistol or pistols to the district attorney within the county where the pistol or pistols are seized, giving a full description thereof, the number, make and model thereof, the name of the person in whose possession it was found when seized, the person making claim to same or any interest therein, if the name can be ascertained or is known, and the date of the seizure. Upon receipt of the report from the person receiving possession of the pistol or pistols as aforesaid, it shall be the duty of the district attorney within the county wherein the pistol or pistols were seized to forthwith file a complaint in the circuit court of the proper county, praying that such seized pistol or pistols be declared contraband, be forfeited to the state and be destroyed.

Any person, firm or corporation or association of persons in whose possession said pistol or pistols may be seized or who claim to own the same or any interest therein shall be made a party defendant to said complaint, and thereupon such matter shall proceed and be determined in the circuit court of the proper county in the same form and manner, as near as may be, as in the forfeiture and destruction of gaming devices, except as herein otherwise provided. When any judgment of condemnation and forfeiture is made in any case filed under the provisions of this section, the judge making such judgment

shall direct therein the destruction of the pistol or pistols by the person receiving possession of said pistol or pistols from the arresting officer in the presence of the clerk or register of the court, unless the judge is of the opinion that the nondestruction thereof is necessary or proper in the ends of justice, in which event and upon recommendation of the district attorney, the judge shall award the pistol or pistols to the sheriff of the county or to the chief of police of the municipality to be used exclusively by the sheriff or the chief of police in the enforcement of law, and the sheriff of the county and the chiefs of police of the municipalities shall keep a permanent record of all pistols awarded to them as provided for herein, to be accounted for as other public property, and said order, in the event that no appeal is taken within 15 days from the rendition thereof, shall be carried out and executed before the expiration of 20 days from the date of the judgment. The court, at its discretion, shall direct in said judgment that the costs of the proceedings be paid by the person in whose possession said pistol or pistols were found when seized, or by any party or parties who claim to own said pistol or pistols, or any interest therein, and who contested the condemnation and forfeiture thereof.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, §186; Acts 1947, No. 616, p. 463, §8; Acts 1951, No. 784, p. 1378; Acts 1967, No. 505, p. 1218; Code 1975, §13-6-164.)

CHAPTER 12. OFFENSES AGAINST PUBLIC HEALTH AND MORALS

ARTICLE 1. GENERAL PROVISIONS

Section 13A-12-1

Certain acts prohibited on Sunday.

Any person who compels his child, apprentice or servant to perform any labor on Sunday, except the customary domestic duties of daily necessity or comfort, or works of charity or who engages in shooting, hunting, gaming, card playing or racing on that day, or who, being a merchant or shopkeeper, druggist excepted, keeps open store on Sunday, shall be fined not less than \$10.00 nor more than \$100.00, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months. However, the provisions of this section shall not apply to the operation of railroads,

airlines, bus lines, communications, public utilities or steamboats or other vessels navigating the waters of this state, or to any manufacturing establishment which is required to be kept in constant operation, or to the sale of gasoline or other motor fuels or motor oils. Nor shall this section prohibit the sale of newspapers, or the operation of newsstands, or automobile repair shops, florist shops, fruit stands, ice cream shops or parlors, lunch stands or restaurants, delicatessens or plants engaged in the manufacture or sale of ice; provided, that such business establishments are not operated in conjunction with some other kind or type of business which is prohibited by this section. It shall also be lawful to engage in motorcycle and automobile racing on Sunday, whether admission is charged or not; except, that this proviso shall not be construed to prevent any municipality from passing ordinances prohibiting such racing on Sunday.

(Code 1852, §73; Code 1867, §3614; Code 1876, §4443; Code 1886, §4045; Code 1896, §5542; Code 1907, §7814; Acts 1923, No. 417, p. 559; Code 1923, §5539; Code 1940, T. 14, §420; Acts 1951, No. 433, p. 783, §1; Acts 1953, No. 230, p. 297; Code 1975, §13-6-1.)

ARTICLE 2. GAMBLING OFFENSES

DIVISION 1. GENERAL PROVISIONS

Section 13A-12-20

Definitions.

The following definitions apply to this article:

(1) Advance gambling activity.

A person "advances gambling activity" if he engages in conduct that materially aids any form of gambling activity.

Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the

particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises,

paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate

therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or

recording phases or toward any other phase of its operation. A person advances gambling activity if, having

substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation.

(2) Bookmaking.

Advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(3) Contest of chance.

Any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(4) Gambling.

A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(5) Gambling device.

Any device, machine, paraphernalia or equipment that is normally used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition.

(6) Lottery or Policy.

An unlawful gambling scheme in which:

- a. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated by the winning ones; and
- b. The winning chances are to be determined by a drawing or by some other fortuitous method; and
- c. The holders of the winning chances are to receive something of value.

(7) Pari-mutuel, Mutuel or The numbers game

A form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event or events otherwise unrelated to the particular scheme.

(8) Player.

A person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity.

(9) Profit from gambling activity.

A person "profits from gambling activity" if he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he shares or is to share in the proceeds of gambling activity.

(10) Slot machine.

A gambling device that, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on a basis other than chance.

(11) Something of value.

Any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service entertainment or a privilege of playing at a game or scheme without charge.

(12) Unlawful.

Not specifically authorized by law.

(Acts 1977, No. 607, p. 812, §6101.)

Section 13A-12-21

Simple gambling.

(a) A person commits the crime of simple gambling if he knowingly advances or profits from unlawful gambling activity as a player.

(b) It is a defense to a prosecution under this section that a person charged with being a player was engaged in a social game in a private place. The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(c) Simple gambling is a Class C misdemeanor.

(Acts 1977, No. 607, p. 812, §6105.)

Section 13A-12-22

Promoting gambling.

(a) A person commits the crime of promoting gambling if he knowingly advances or profits from unlawful gambling activity otherwise than as a player.

(b) Promoting gambling is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §6106; Acts 1979, No. 79-471, p. 862, §1.)

Section 13A-12-23

Conspiracy to promote gambling.

(a) A person commits the crime of conspiracy to promote gambling if he conspires to advance or profit from gambling activity otherwise than as a player.

(b) "Conspire" means to engage in activity constituting a criminal conspiracy as defined in Section 13A-4-3.

(c) Conspiracy to promote gambling is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §6110; Acts 1979, No. 79-471, p. 862, §1.)

Section 13A-12-24

Possession of gambling records in the first degree.

(a) A person commits the crime of possession of gambling records in the first degree if with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

- (1) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets, or more than \$500.00; or
- (2) Of a kind commonly used in the operation, promotion or playing of a lottery or mutuel scheme or enterprise, and constituting, reflecting or representing more than five plays or chances therein.

(b) Possession of gambling records in the first degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §6115; Acts 1979, No. 79-471, p. 862, §1.)

Section 13A-12-25

Possession of gambling records in the second degree.

(a) A person commits the crime of possession of gambling records in the second degree if with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

- (1) Of a kind commonly and peculiarly used in the operation or promotion of a bookmaking scheme or enterprise; or
- (2) Of a kind commonly and peculiarly used in the operation, promotion or playing of a lottery or mutuel scheme or enterprise.

(b) Possession of gambling records in the second degree is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §6116.)

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Defense to prosecution for possession of gambling records.

A person does not commit the crime of possession of gambling records in either degree if the writing, paper, instrument or article possessed by the defendant is neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or mutual scheme or enterprise. The burden of injecting the issue is on the defendant, but this does not shift the burden of proof.

(Acts 1977, No. 607, p. 812, §6120.)

Section 13A-12-27

Possession of gambling device.

(a) A person commits the crime of possession of a gambling device if with knowledge of the character thereof he manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of:

- (1) A slot machine; or
- (2) Any other gambling device, with the intention that it be used in the advancement of unlawful gambling activity.

(b) Possession of a gambling device is a Class A misdemeanor.

(Acts 1977, No. 607, p. 812, §6125.)

Section 13A-12-28

Prima facie proof of gambling offenses.

(a) Proof of possession of any gambling device, as defined by subdivision (5) of Section 13A-12-20 or any gambling record specified in Sections 13A-12-24 and 13A-12-25 is prima facie evidence of possession thereof with knowledge of its character or contents.

(b) In any prosecution under this article in which it is necessary to prove the occurrence of a sporting event, (1) a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation, or (2) evidence that a description of some aspect of the event was written, printed or otherwise noted at the place in which a violation of this chapter is alleged to have been committed, shall be admissible in evidence and shall constitute prima facie proof of the occurrence of the event.

(Acts 1977, No. 607, p. 812, §6130.)

Section 13A-12-29

Lottery occurring outside state no defense to prosecution under Section 13A-12-22.

It is no defense under Section 13A-12-22 relating to a lottery that the lottery itself is drawn or conducted outside Alabama and is not in violation of the laws of the jurisdiction in which it is drawn or conducted.

(Acts 1977, No. 607, p. 812, §6135.)

Section 13A-12-30

Forfeiture of gambling devices and gambling proceeds.

(a) Any gambling device or gambling record possessed or used in violation of this article is forfeited to the state, and shall by court order be destroyed or otherwise disposed of as the court directs.

(b) Any vehicle possessed or used in violation of this article may be forfeited to the state and disposed of by court order as

authorized by law.

(c) Money used as bets or stakes in gambling activity in violation of this article is forfeited to the state and by court order shall be transmitted to the general fund of the state.

(Acts 1977, No. 607, p. 812, §6140.)

Section 13A-12-31

Legalized pari-mutuel betting not affected.

The provisions of this article shall not apply to pari- mutuel betting at race meetings authorized by statute. All presently effective state statutes and laws and locally adopted ordinances and laws pursuant thereto legalizing, authorizing or allowing greyhound races and betting or wagering thereon are hereby expressly and specifically preserved, saved and excepted from any repealer provisions contained anywhere in the Criminal Code.

(Acts 1977, No. 607, p. 812, §6145.)

DIVISION 2. SUPPRESSION OF GAMBLING PLACES

Section 13A-12-50

Unlawful to maintain electric bells, etc.

No person or persons shall maintain or use any electric bells, wires or signals or any elevators or dumbwaiters or other implements or appliances connected with any gaming place or rooms used for gaming, which may be used for the purpose of communicating with the occupants of such gaming house or rooms used for gaming or with those who may be within, and any person who erects, maintains or uses any such bells, wires, signals or elevators or dumbwaiters or other implements or appliances or devices of like kind for said purpose shall be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

(Acts 1909, No. 193, p. 183; Code 1923, §4282; Code 1940, T. 14, §294; Code 1975, §13-7-91.)

Section 13A-12-51

District attorney to file complaint on certain information.

When it shall be made known to any district attorney who prosecutes criminal cases in the county by the chief of police, sheriff or other officer or by any reputable citizen that any hotel, tavern, inn or other building has been provided with bells, wires, signals or dumbwaiters or any of them, or other implements or appliances for communicating with the occupants of a gaming place or rooms used for gambling, or that barred or locked doors have been provided which prevent the access of any officer to said rooms where said gaming is carried on, the district attorney shall file a complaint in a court against the owner of such building or room, as well as against the keeper or proprietor of such hotel, tavern, inn or other building to obtain a mandatory injunction to compel the removal of all the things, implements or devices hereinabove mentioned and to perpetually enjoin them from permitting said hotel, tavern, inn or building to be used for the purpose of gaming, and application shall be made upon the filing of such complaint to the judge for a preliminary injunction if the district attorney will make the affidavit to said complaint which he may do on information or belief or if any other officer or citizen offers to make such affidavit so as to obtain an order for a preliminary injunction. Any party or parties operating or conducting said gaming room or place, or found therein, may be joined as parties defendant to the complaint.

(Acts 1909, No. 193, p. 183; Code 1923, §4283; Code 1940, T. 14, §295; Code 1975, §13-7-92.)

Section 13A-12-52

Exhibiting gambling devices in barred house or where speaking tubes or electric signals are used.

No person or persons shall exhibit or expose to view in any barred or barricaded house or room, in any place built or constructed in such manner as to make it difficult of access or ingress to police officers or other officers, or protected, furnished or equipped with speaking tubes, dumbwaiters, electric wires or bells, or other apparatus for giving alarm from the outside or from the inside of such house, or room when two or more persons are present, any cards, dice, roulette wheel or any gambling implements whatever. Any person violating the provisions of this section shall be guilty of a felony and shall be

punished by imprisonment in the penitentiary for not less than one nor more than five years; and all persons who visit or resort to any such barred or barricaded house or room or other place that is built or protected or equipped in the manner described in this section and where any cards, dice, roulette wheel or any gaming implements whatever are kept or exhibited or exposed to view when said persons visit or resort to such place for the purpose of gaming, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than \$300.00 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

(Acts 1909, No. 193, p. 183; Code 1923, §4284; Code 1940, T. 14, §296; Code 1975, §13-7-93.)

Section 13A-12-53

Owner permitting any person to equip any room, etc.

Any person who, being the owner, proprietor, or keeper, or superintendent of any tavern, inn, restaurant, billiard room, poolroom or other public house, permits or suffers any person or persons on or about the premises to provide a barred or barricaded room or rooms to which persons resort for gaming or who knowingly or wilfully permits or knowingly or wilfully suffers any person or persons to equip any room or rooms on or about the premises with electric bells, wires or signals, or elevators, dumbwaiters or other implements or appliances connected with such rooms used or to be used for the purpose of communicating with an occupant or occupants of such gambling room or rooms, shall likewise be guilty of a felony and shall be punished by imprisonment in the penitentiary for not less than one nor more than five years.

(Acts 1909, No. 193, p. 183; Code 1923, §297; Code 1940, T. 14, §297; Code 1975, §13-7-94.)

Section 13A-12-54

When affidavit made, court to examine affiant under oath.

When an affidavit is made before a court of competent jurisdiction that the complainant has probable cause to believe and

does believe that any house or any part of a house, particularly designating the same, is being kept or maintained contrary to the provisions of this division, or that a gaming table is being exhibited or kept at said place, or that said house or part of a house or any room therein is provided with electric bells or other instruments or appliances hereinabove set forth for communicating with the occupants of such place or room, or that some other offense under this division is being committed at said house or room, then the court to whom the application is made shall examine the complainant or affiant under oath and other witnesses, if he so desires, touching the matter charged in the affidavit, and, if the said court has probable cause for believing that the act or offense alleged in the affidavit is being committed, he shall issue his warrant directed to any lawful officer of the State of Alabama commanding him to enter the house or room and to arrest all parties found therein and to bring them before such court to be dealt with according to law.

(Acts 1909, No. 193, p. 183; Code 1923, §4286; Code 1940, T. 14, §298; Code 1975, §13-7-95.)

Section 13A-12-55

Duty of officer to break into and enter house.

The officer, in executing said warrant, shall break into and enter such house, room or part of a house, upon the refusal of the proprietor or any occupant thereof to open the same, and seize all gambling instruments and bring such instruments, together with all gambling devices and the parties that are found there, before the court which issued the warrant.

(Acts 1909, No. 193, p. 183; Code 1923, §4287; Code 1940, T. 14, §299; Code 1975, §13-7-96.)

Section 13A-12-56

Arrest of occupants of house.

If it appears from the affidavit of the complainant or of any other witness that he produces what persons are the proprietors of or the occupants of the house, part of a house or room hereinabove described, the warrant shall order the arrest of such

persons by name, but if such proprietors or occupants are unknown, it may be so stated in the affidavits and warrants, and, upon bringing the said persons who are arrested under said warrant before the court, a supplemental affidavit may be made against them by the complainant or any officer executing the warrant charging them with the offense or felony of which they appear to be guilty under the provisions of this division.

(Acts 1909, No. 193, p. 183; Code 1923, §4288; Code 1940, T. 14, §300; Code 1975, §13-7-97.)

Section 13A-12-57

Trial; defendant bound over.

The court shall thereupon proceed to hear the evidence in the case, and, if probable cause is shown for believing said parties or any of them to be guilty, he shall bind them over under proper bond to await the action of the grand jury in accordance with the laws of the state as prescribed in preliminary examinations before courts authorized by law to conduct preliminary examinations, and all rules of procedure applicable to such preliminary examinations shall be likewise applicable to proceedings under this division.

(Acts 1909, No. 193, p. 183; Code 1923, §4289; Code 1940, T. 14, §301; Code 1975, §13-7-98.)

Section 13A-12-58

Presence of bells, etc., prima facie evidence.

The presence of electric bells, wires or signals or dumbwaiters or of other implements or appliances that may be used for the purpose of communicating with persons who are occupying a barred or barricaded room on or about the premises of a hotel, restaurant, billiard room, poolroom or any room above the grade floor in the business district of any town or city is prima facie evidence that gaming was being there carried on by such parties in any prosecution against them, if they have the general reputation of being gamblers, and in all such cases, proof of such general reputation is admissible in evidence.

(Acts 1909, No. 193, p. 183; Code 1923, §4290; Code 1940, T. 14, §302; Code 1975, §13-7-99.)

TRANSPORTATION OF LOTTERY PARAPHERNALIA

Section 13A-12-70

Transportation by certain persons; seizure of vehicles used.

Any transportation or conveyance within this state of any slip, ticket, card, paper, writing, article, thing or other device or paraphernalia which is customarily or usually used in the operation of a form or type of lottery commonly known as a numbers (or number) game or policy game (herein called "lottery paraphernalia") or any possession thereof in any vehicle of transportation by any person who is or has been within three years next preceding actually engaged in or connected with the setting up, conducting or operation of any such game, or who is or has been within three years next preceding an employee of a person or persons who are or have been engaged in setting up, conducting or operating of any such game is hereby declared to be a misdemeanor; and all conveyances or vehicles of transportation which have been within three years next preceding or are used by such persons for the conveying or transporting of such prohibited lottery paraphernalia into this state or from one point in the state to another point within the state, or in which conveyance any such lottery paraphernalia may be contained or found while such conveyance is in the custody or control of such person shall be contraband and shall be forfeited to the State of Alabama and shall be seized by any sheriff or other person acting under authority of the law in the enforcement of the laws of this state who become cognizant of the facts or who finds such prohibited lottery paraphernalia being transported, stored or contained as aforesaid in such conveyance or vehicle. And such officer or person shall report the seizure and the facts connected therewith to a district attorney in the county where seizure is made, or, in default thereof, to the attorney general of the state, giving full description of the vehicle or conveyance seized and detained, the person in whose possession it was found, the person making a claim to the same, or any interest therein, if the name can be ascertained or is known, and the date of seizure.

(Acts 1951, No. 798, p. 1395; Code 1975, §13-7-111.)

Section 13A-12-71

Movement of vehicle need not be shown.

In order to condemn and confiscate any of the above mentioned conveyances or vehicles, it shall not be necessary for the state or prosecuting authority to show any actual movement of said conveyance or vehicles while loaded with, or in which there is contained or stored, any of said prohibited lottery paraphernalia, but the presence thereof in any conveyance or vehicle which is in the use of, control or custody of any such person as described in Section 13A-12-70 shall be sufficient cause of forfeiture of such conveyance or vehicle.

(Acts 1951, No. 798, p. 1395; Code 1975, §13-7-112.)

Section 13A-12-72

Procedure for condemnation and forfeiture of vehicle.

Except as otherwise herein provided, the manner, method and procedure for the forfeiture and condemnation of any such vehicle shall be the same as that provided by law for the confiscation or condemnation or forfeiture of automobiles, conveyances or vehicles in which alcoholic beverages are illegally transported. Without limiting the generality of the foregoing sentence, Sections 28-4-286 and 28-4-287 shall apply.

(Acts 1951, No. 798, p. 1395, §3; Code 1975, §13-7-113.)

Section 13A-12-73

Sale of forfeited vehicle; rights of bailor, conditional vendor or mortgagee.

The court in condemnation proceedings shall sell the right of all interested persons in and to said conveyance or vehicle who aided or assisted any such person as described in Section 13A-12-70 in the illegal transportation or who had knowledge or notice thereof, or who had knowledge of the presence thereof in said vehicle or conveyance, or who could by reasonable diligence have obtained knowledge or notice thereof. Any bona fide bailor or conditional vendor or chattel mortgagee who shall, prior to bailing, selling or accepting a mortgage upon such conveyance or vehicle, make inquiry of the sheriff and chief

of police of the county and city of the residence of such bailee, vendee or mortgagor and of the sheriff and chief of police of the county and city of the place of business of the bailor, vendor or mortgagee, or of any recognized or licensed agency which makes a systematic check of court records of convictions for violations of the law and furnishes credit reports, and in answer to such inquiry shall be informed in writing that the prospective bailee, conditional vendee or mortgagor has no reputation as a person who has been engaged in operating or connected with lotteries, gambling or gaming and that such person has not according to their records been convicted of a violation of any of the laws of this state, any other state or of any municipal ordinance relating to gaming, gambling or lotteries, shall be presumed to be entitled to such conveyance or vehicle or to be protected to the extent of his interest therein.

(Acts 1951, No. 798, p. 1395, §4; Code 1975, §13-7-114.)

Section 13A-12-74

Disposition of proceeds of sale of forfeited vehicle.

The proceeds of the sale of any such vehicle or conveyance forfeited to the state shall, after paying all expenses in the cause, including the costs of seizure and of keeping a property pending the proceedings, be applied as follows: One half shall be paid into the general fund of the county in which the property is seized, and the other one half shall be paid into the Law Enforcement Fund to be used and applied on the enforcement of state laws under the supervision and control of the Governor; but provided, that when such property shall be seized by an officer of a municipality, one half thereof shall be paid into the general fund of the municipality, one quarter thereof shall be paid into the general fund of the county and the other one quarter shall be paid into the law enforcement fund to be used and applied on the enforcement of state laws under the supervision and control of the Governor.

(Acts 1951, No. 798, p. 1395, §5; Code 1975, §13-7-115.)

Section 13A-12-75

Transportation of articles not commonly used in numbers or policy game not unlawful.

The provisions of this division shall not be construed to make unlawful the transportation of articles or paraphernalia not commonly used in the conduct of any form or type of lottery commonly known as a numbers (or number) game or policy game, and no vehicle used in transporting such articles or paraphernalia not commonly used in the conduct of such game shall be subject to condemnation or forfeiture by reason of such use or transportation.

(Acts 1951, No. 798, p. 1395, §7; Code 1975, §13-7-116.)

Section 13A-12-76

Bona fide coin-operated amusement machines.

(a) Sections 13A-12-70 to 13A-12-75, inclusive, shall not apply to a coin-operated game or device designed and manufactured for bona fide amusement purposes which, by application of some skill, only entitles the player to replay the game or device at no additional cost if a single play of the bona fide coin-operated amusement machine or device can reach no more than 25 free replays or can be discharged of accumulated free replay, or rewards the player exclusively with merchandise limited to noncash merchandise, prizes, toys, gift certificates, or novelties, each of which has a wholesale value of not more than five dollars (\$5). This subsection shall not apply to any game or device classified by the United States government as requiring a federal gaming tax stamp under applicable provisions of the Internal Revenue Code.

(b) Any person who gives to any other person money or anything of value for free replays on coin-operated devices described in subsection (a) shall be guilty of a Class A misdemeanor.

(c) Sections 13A-12-70 to 13A-12-75, inclusive, shall not apply to a crane game machine or device which meets the following requirements:

(1) The crane machine or device is designed and manufactured only for bona fide amusement purposes and involves at least some skill in its operation.

(2) For a single play of the crane machine or device, the winning player is rewarded exclusively with merchandise contained within the machine itself and the merchandise is limited to noncash merchandise, prizes, toys, gift

certificates, or novelties, each of which has a wholesale value not exceeding five dollars (\$5).

(3) The player of the crane machine or device is able to control the timing of the use of the claw or grasping device to

attempt to pick up or grasp a prize, toy, or novelty.

(4) The player of the crane machine or device is made aware of the total time which the crane machine or device

allows during a game for the player to maneuver the claw or grasping device into a position to attempt to pick up or

grasp a prize, toy, or novelty.

(5) The claw or grasping device is not of a size, design, or shape that prohibits picking up or grasping a prize, toy, or

novelty contained within the crane machine or device.

(6) The crane machine or device is not classified by the United States government as requiring a federal gaming

stamp under the Internal Revenue Code.

(d) A player of a bona fide coin-operated amusement machine may accumulate winnings for the successful play of a bona

fide coin-operated amusement machine through either tokens or tickets, and may redeem these tokens or tickets for

merchandise so long as the amount of tokens or tickets earned on a single play does not exceed five dollars (\$5) per unit.

(e)

(1) For purposes of this section, "bona fide coin-operated amusement machine" means every machine of any kind or

character used by the public to provide amusement or entertainment whose operation requires the payment of or the

insertion of a coin, bill, other money, token, ticket, or similar object, and the result of whose operation depends in

whole or in part upon the skill of the player, whether or not it affords an award to a successful player, and which can

be legally shipped interstate according to federal law. Examples of bona fide coin-operated amusement machines

include, but are not limited to, the following:

a. Pinball machines.

b. Console machines.

c. Video games.

d. Crane machines.

e. Claw machines.

f. Pusher machines.

g. Bowling machines.

h. Novelty arcade games.

i. Foosball or table soccer machines.

- j. Miniature racetrack or football machines.
 - k. Target or shooting gallery machines.
 - l. Basketball machines.
 - m. Shuffleboard games.
 - n. Kiddie ride games.
 - o. Skee-ball machines.
 - p. Air hockey machines.
 - q. Roll down machines.
 - r. Coin-operated pool table or coin-operated billiard table.
 - s. Any other similar amusement machine which can be legally operated in Alabama.
 - t. Every machine of any kind or character used by the public to provide music whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object, such as jukeboxes or other similar types of music machines.
- (2) The term "bona fide coin-operated amusement machine" does not include the following:
- a. Coin-operated washing machines or dryers.
 - b. Vending machines which for payment of money dispense products or services.
 - c. Gas and electric meters.
 - d. Pay telephones.
 - e. Cigarette vending machines.
 - f. Coin-operated scales.
 - g. Coin-operated gumball machines.
 - h. Coin-operated parking meters.
 - i. Coin-operated television sets which provide cable or network programming.
 - j. Machines which are not legally permitted to be operated in Alabama.
 - k. Slot machines.
 - l. Video poker games.

(f) Any person owning or possessing an amusement game or device described in subdivision (1) of subsection (e) or any person employed by or acting on behalf of another person who gives to another person money for noncash merchandise, prizes, toys, gift certificates, or novelties received as a reward in playing an amusement game or device shall be guilty of a Class A misdemeanor.

(Acts 1996, No. 96-588, §1.)

DIVISION 4. FEDERAL WAGERING OCCUPATIONAL TAX STAMP

Section 13A-12-90

Possession, etc., of stamp prima facie evidence of violation of gambling laws.

The holding, owning, having in possession of, or paying the tax of a wagering occupational tax stamp issued by the internal revenue authorities of the United States shall be held in all the courts of this state as prima facie evidence against the person holding such stamp in any prosecution of such person for violation of the gambling laws of this state.

(Acts 1953, No. 741, p. 1005, §1; Code 1975, §13-7-130.)

Section 13A-12-91

Production of stamp warrants indictment or information.

In cases where the proper prosecuting officers shall produce said stamp or certified copy, the grand jury may indict the holder of such stamp or the proper prosecuting officer may file information against the holder of such stamp without further proof, charging such holder with the violation of the Alabama gambling laws.

(Acts 1953, No. 741, p. 1005, §2; Code 1975, §13-7-131.)

Section 13A-12-92

Proof of ownership, etc.

Upon the trial of such person, proof of the owning, holding or possession of such stamp may be made by two witnesses who have seen such stamp in the place of business of the holder or on his person, or by the production of the original stamp with proof by one or more witnesses that it is the property of the defendant, or by production by the state of a copy of such stamp certified by the director of the issuing federal internal revenue district as being a copy of the stamp originally issued to the defendant. Proof made as herein provided shall be sufficient evidence, without explanation, to convict of violation of the gambling laws.

(Acts 1953, No. 741, p. 1005, §3; Code 1975, §13-7-132.)

TITLE 15. CRIMINAL PROCEDURE

CHAPTER 8. INDICTMENTS

ARTICLE 8. FORMS OF INDICTMENTS

Section 15-8-150

Contents; sufficiency; use of analogous forms.

The forms of indictment set forth in this section in all cases in which they are applicable, are sufficient, and analogous forms may be used in other cases.

(1) Caption, commencement and conclusion generally.

The grand jury of said county charge that, before the finding of this indictment, etc. (describing the offense as in the following forms), against the peace and dignity of the State of Alabama.

(2) Advertising, etc., unregistered securities.

A. B. did, contrary to law, and subsequent to the … day of…, 19…,, advertise (or otherwise describing the unlawful act) in this state for the purpose of inducing or securing subscriptions to or sales of the capital stock of the X. Y. company (or otherwise describing the security so advertised), which said stock (or other security) had not then been registered and recorded in the register of the Alabama Securities Commission (or which said advertisement had not then been filed with and approved by the chairman of the Alabama Securities Commission).

(3) Affrays.

A. B. and C. D. did fight together in a public place.

(4) Altering, etc., marks, brands, etc.

A. B., with intent to defraud, marked or branded an unmarked horse, or altered or defaced the mark or brand of a marked animal, the property of C. D.

(5) Cruelty to animals.

A. B. did override (overdrive, overload, drive when overloaded, torture, torment, deprive of necessary sustenance, mutilate or cruelly kill, or cause or procure the same, as the case may be) a horse (or other domestic animal, naming it).

(6) Wanton, malicious, etc., destruction, etc., of animals, etc.

A. B. did unlawfully, or wantonly, or maliciously, kill (or disable, disfigure, destroy or injure) a horse (or other property mentioned in the statute), the property of C. D.

(7) Arson in the first degree.

A. B. willfully set fire to, or burned or caused to be burned, or aided or procured the burning (as the case may be) a

dwelling house (or other building describing it), the property of C. D.; or with intent to defraud set fire to or burned,

or caused to be burned, or aided or procured the burning of a dwelling house (or other house within the curtilage of

such dwelling house) the property of himself; (if it is alleged that said arson has produced the death or maiming of any person, this allegation shall be added.)

(8) Arson in the second degree.

A. B. willfully set fire to or burned, or caused to be burned, or aided or procured the burning (as the case may be) of

a crib, (or other building) the property of C. D., not within the curtilage of a dwelling, or a shop (or other building)

the property of another; or, with intent to defraud, set fire to or burned, or caused to be burned, or aided or

procured the burning of (any of the property named in this section) belonging to himself; (if it is alleged that said arson

has produced the death or maiming of any person, this allegation shall be added.)

(9) Arson in the third degree.

A. B. willfully set fire to, or burned or caused to be burned, or aided or procured the burning (as the case may be) of

a crib, (or other building describing it), of the value of \$25.00 or more, the property of C. D.; or with intent to

defraud set fire to or burned, or caused to be burned, or aided or procured the burning of a crib (or other property

named in this section) the property of himself.

(10) Assault and battery.

A. B. assaulted and beat C. D.

(11) Abusing, beating, etc., accused person.

A. B. and C. D. did abuse, whip, or beat E. F., upon an accusation that he had been guilty of stealing (or to force the

said E. F. to disclose where he was on the night of August 21, 1975, or to leave the country, etc., as the case may

be.)

(12) Assault with stick, etc., while intimidating with deadly weapon.

A. B. did assault and beat C. D. with a cowhide, stick or whip, having in his possession at the time a pistol (or a

bowie knife or other deadly weapon), with the intent to intimidate the said C. D., and prevent him from defending

himself.

(13) Assault with intent to maim.

A. B. assaulted C. D. with the intent unlawfully, maliciously and intentionally to cut out or disable his tongue, or to put

out or destroy his eye, etc.

(14) Assault with intent to murder.

A. B., unlawfully and with malice aforethought, did assault C. D., with the intent to murder him.

(15) Assault with intent to ravish.

A. B. did assault C. D., a woman, with the intent forcibly to ravish her.

(16) Assault with intent to rob.

A. B. assaulted C. D. with the felonious intent, by violence to his person or by putting him in fear of some serious and immediate injury to his person, to rob him.

(17) Betting at cards, dice, etc.

A. B. bet at a game played with cards or dice, or some device or substitute for cards or dice, at a tavern, inn, storehouse for retailing spirituous liquors, or house or place where spirituous liquors were at the time sold, retailed or given away, or in a public house, highway or some other public place or at an outhouse where people resorted (or other place forbidden by law), against, etc.

(18) Betting at gaming table, etc.

A. B. bet at a gaming table for gaming, or at a game called keno, or roulette, etc.

(19) Betting on election.

A. B. did bet with C. D. on a general (or primary, or municipal or special) election, held on the … day of … …

(20) Betting with minor.

A. B., being of full age, bet with C. D., a minor.

(21) Bigamy.

A. B., having a wife then living, unlawfully married one C. D.

(22) Bribery of ministerial officer, etc.

A. B. did corruptly offer, promise or give to C. D., a ministerial officer of a court, to-wit: (name the office), or to C.

D., auditor, juror, arbitrator, umpire or referee, \$1.00 (or other gift, gratuity or value, naming it), with the intent to bias the mind or influence the decision of C. D., as such officer in relation to the cause or matter, viz.: (describe the cause or matter).

(23) Bribery to commit a felony.

A. B. did corruptly give, offer or promise one C. D. a certain gift, gratuity or thing of value, to-wit: (describing the gift or thing of value, as one horse or \$10.00), with intent to induce or influence said C. D. to commit a certain crime or

offense punishable as a felony, to-wit: (the offense of murder by unlawfully and with malice aforethought killing one E.

F., or the offense of perjury by falsely and corruptly swearing on the trial of the case of the State of Alabama v. said

A. B., in the … court of … county, which case was a criminal prosecution against said A. B. for the

offense of murder of one E. F. that he, said C. D., was present at the time the homicide was committed, and that said

A. B., did not cut said E. F., or, that at the time the homicide was committed said A. B. was at the house of said C.

D., a place other than the place at which the homicide was committed).

(24) Bringing stolen goods into this state.

A. B. feloniously took and carried away, in the State of Mississippi, one mule, the personal property of C. D., and

brought said mule into the County of Mobile, in this state, against, etc.

(25) Injuring or defacing building.

A. B. did willfully injure or deface a church (or other building within the statute, describing it; if the property of an

individual, giving the name of the owner or person in possession).

(26) Possession of burglary, etc., tools.

A. B. had in his possession an implement or instrument designed and intended by him to aid in the commission of

burglary or larceny in this state, or elsewhere, against, etc.

(27) Burglary in first degree.

A. B. did, in the nighttime, with intent to steal (or to commit arson in the first degree, or other designated felony, as

the case may be, or in the alternative) break into and enter an inhabited dwelling (or other house or building within the

statute, describing it and giving the name of the owner or person in possession) which was occupied by C. D., a

person lodged therein, against, etc.

(28) Burglary in second degree.

A. B. did, in the daytime, with intent to steal (or to commit arson in first degree, or other designated felony, as the

case may be, or in the alternative), break into and enter an inhabited dwelling house (or other house or building within

the statute, describing it, and giving the name of the owner or person in possession), which was occupied by C. D., a

person lodged therein or A. B. did with intent to steal (or to commit arson in the first degree, or other designated

felony, as the case may be, or in the alternative), break into and enter an uninhabited dwelling house, or a building,

structure or other enclosure (describing it and giving the name of the owner or person in possession) within the

curtilage of a dwelling house, though not forming any part thereof, or a shop, store, warehouse (or other building,

structure, or enclosure within the statute, describing it, giving the name of the owner or person in possession) which is

specially constructed or made to keep goods, wares, merchandise or other valuable thing (describing the article) in

which goods, wares, merchandise or other valuable thing (describing it) was kept for use, sale or deposit (as the case

may be or in the alternative), against, etc.

(29) Burglary of motor vehicle.

A. B., with intent to steal or to commit a felony (designating the felony as the case may be, or in the alternative) did

break into and enter a motor vehicle, the property of C. D., against, etc.

(30) Burglary of railroad car.

A. B., with intent to steal (or to commit a felony, describing it as murder, or as the case may be), broke into and

entered a railroad car, upon or connected with a railroad in this state, in which goods, merchandise, furniture or

valuable things were kept for use, deposit or transportation as freight.

(31) Burning property, etc., with intent to defraud, etc., insurer; arson in third degree.

A. B., willfully or with intent to charge, injure or defraud the insurer, set fire to (or burned or caused to be burned, or

aided or procured the burning, as the case may be) the following personal property: (here describe it) the property of

himself, or of C. D., which property was at the time insured against loss or damage by fire.

(32) Buying, selling, having, etc., prohibited liquors.

A. B. did buy, sell, have in possession illegally, give, barter, exchange, receive, deliver, carry or ship prohibited

liquors, contrary to law, against, etc.

(33) Card or dice playing at public places, houses, etc.

A. B. played at a game with cards or dice, or some device or substitute for cards or dice, at a tavern, inn, storehouse

for retailing spirituous liquors or house or place where spirituous liquors were at the time sold, retailed or given away,

or in a public house, highway or some other public place or at an outhouse where people resorted.

(34) Carnal knowledge of girl under 12 years of age.

A. B. did carnally know, or abuse in the attempt to carnally know C. D., a girl under the age of 12.

(35) Carrying concealed weapon.

A. B. carried a pistol concealed about his person or on premises not his own or under his control.

(36) Challenging, etc., to fight a duel.

A. B. gave, accepted or knowingly carried a challenge, in writing, or in words (as the case may be), to fight in single

combat, with a deadly weapon, against, etc.

(37) Forcible taking of woman for purposes of marriage or defilement.

A. B. did take C. D., a woman, unlawfully and against her will, by menace, force or duress, did compel her to marry

him (or to marry one E. F., or to be defiled, etc., as the case may be).

(38) Compounding felony.

A. B., knowing that one C. D. had been guilty of the commission of a felony, took or agreed to take, from the said

C. D., money or other property, to compound or conceal such felony, or to abstain from any prosecution therefor.

(39) Conspiracy to commit a felony or misdemeanor.

A. B. and C. D. conspired together to unlawfully, and with malice aforethought, kill E. F. (or to assault and beat E.

F., as the case may be), against, etc.

(40) Possession of counterfeit coin.

A. B. had in his possession a counterfeit of a gold coin of the United States, of the denomination of \$10.00, which

was at the time current in this state, knowing the same to be counterfeit, and with intent to defraud or injure, by

uttering the same as true, or causing it to be so uttered.

(41) Counterfeiting coin.

A. B. counterfeited a silver coin of the Republic of Mexico, called a dollar, which was at the time, by law, usage and

custom, current in this state.

(42) Decoying away, etc., child.

A. B. did take or decoy away C. D., a child, with intent to detain or conceal the said C. D. from his (or her) parents

(or guardian, as the case may be), etc.

(43) Defamation.

A. B. did falsely speak (or write or print, as the case may be) of and concerning C. D., in the presence of E. F.,

charging her with a want of chastity, or did falsely and maliciously speak of and concerning C. D. in the presence of

E. F. charging him with having committed larceny, or perjury (or other felony or indictable offense, as the case may

be), in substance as follows, to-wit: (here setting out the substance of the word spoken, written or printed, as the

case may be).

(44) Practice of dentistry without license.

A. B. did practice or engage in the business of dentistry without a license and contrary to law.

(45) Disclosure of indictment by officer of court or grand juror.

A. B., an officer of the court, to-wit, a deputy sheriff (or a grand juror, as the case may be), disclosed the fact that an

indictment had been found by the grand jury of said county against one C. D., before the defendant had been

arrested, or had given bail for his appearance to answer thereto, against, etc.

(46) Disturbing religious worship.

A. B. willfully interrupted or disturbed an assemblage of people, met for religious worship, by noise, profane

discourse or rude or indecent behavior at or near the place of worship (or by fighting at or near the place of worship,

as the case may be).

(47) Disturbing women at public assemblies, etc., by profanity, etc.

A. B., by rude or indecent behavior, or by profane or obscene language, disturbed a woman at a public place (or at

a railroad station or other place frequented by the traveling public, as the case may be) against, etc.; or A. B., by

rude and indecent behavior, or by profane or obscene language, willfully disturbed a woman on a railroad car, or

steamboat or in any other public conveyance, as the case may be.

(48) Public drunkenness.

A. B., while intoxicated or drunk, did appear in a public place, to-wit (name the place) where one or more persons

were present, or within the curtilage of the private residence of C. D., where one or more persons were present, and

manifested his drunken condition by boisterous or indecent conduct, or loud and profane discourse.

(49) Embezzlement, etc., by bank officer.

A. B., an officer of the Central of Alabama, a bank incorporated under the laws of said state, embezzled or

fraudulently converted to his own use money to about the amount of \$500.00 (or bank notes to the amount of about

\$1,000.00, as the case may be), which was in the possession of the said bank, or deposited therein.

(50) Emitting or circulating change bills.

A. B., without authority of law, signed, made, emitted or countersigned, or caused or procured to be made, emitted,

signed or countersigned, a certain paper to answer the purpose of money, or for general circulation, in substance as

follows: (here set out substantially the paper), against, etc.; or A. B. passed or circulated a certain paper the

substance or tenor of which is as follows: (setting it out in substance), the said paper having been issued without the

authority of law, to answer the purposes of money, against, etc.

(51) Defrauding, etc., of employer by employee.

A. B., with intent to injure or defraud his employer, C. D., entered into a written contract to perform labor or

services for C. D., and obtained thereby the sum of … dollars (or certain personal property, describing it) from

C. D., and afterwards with like intent and without just cause, failed or refused to perform such labor or services, or

to refund such money (or to return such personal property) against, etc.

(52) Receipt of unauthorized official fees.

A. B., being an officer of said county, knowingly took from C. D. \$5.00 for the issue of a search warrant, being a

greater fee than was by law allowed for such service.

(53) Receipt of property by false personation.

A. B. did falsely personate C. D., with intent to defraud, and, in such assumed character, received \$100.00, intended

to have been delivered to the said C. D.

(54) Obtaining personal property or money by false pretenses.

A. B. did falsely pretend to C. D., with intent to defraud, that he had 10 bales of cotton packed and ready for delivery, and, by means of such false pretense, obtained from the said C. D. \$100.00 (or 10 pieces of cloth, as the case may be).

(55) Obtaining signature by false pretenses.

A. B. did falsely pretend to C. D., with intent to injure or defraud, that (here set out the false pretenses), and by means of such false pretenses, obtained from C. D. his signature to a certain written instrument, in substance as

follows: (here set out instrument as near as may be), the false making of which is forgery, against, etc.

(56) Presenting firearm at another.

A. B. did unlawfully present a firearm at C. D.

(57) Forgery in first degree.

A. B., with intent to injure or defraud, did alter, forge or counterfeit a certain bill (or note, draft, etc., as the case may

be), which was in substance as follows: (here set out the instrument as near as may be); or, with intent to injure or

defraud, did utter and publish as true the said falsely altered, forged or counterfeited bill (or note, draft, check, etc.,

as the case may be), knowing the same to be so altered, forged or counterfeited.

(58) Forgery of will, deed, note, bill, bond, receipt or other written instrument.

A. B., with intent to injure or defraud, did falsely make, alter, forge, counterfeit (or totally obliterate, as the case may

be), an instrument in writing, in words and figures substantially as follows: (here set out the instrument in substance),

against, etc.

(59) Fraudulent conveyance.

A. B., with the intent to hinder, delay or defraud his creditors, did make a conveyance of property to C. D.; or A. B.

did accept from C. D. a conveyance of property, with the intent to hinder, delay or defraud the creditors of the said

C. D.

(60) Grand larceny.

A. B. feloniously took and carried away a horse, the personal property of C. D., (or a gold watch of the value of

… dollars, the personal property of C. D.); or A. B. feloniously took and carried away from a building on fire,

or which was removed in consequence of an alarm of fire, a silver watch of the value of … dollars, the personal

property of C. D.; or A. B. feloniously took and carried away from a dwelling house a diamond breastpin, of the

value of … dollars, the personal property of C. D., or A. B. feloniously took and carried away from the person

of C. D. one banknote for \$1.00 on the bank of Mobile, of the value of …
dollars, the personal property of C.

D.; or A. B., knowingly, willfully, and without the consent of the owner, entered upon
the land of C. D., and cut and

carried off timber (or rails, as the case may be), of the value of \$25.00 or more,
against, etc.

(61) Incest.

A. B., a man, being the father of one E. B., a woman, and within the degree of
consanguinity or relationship within

which marriages are declared by law to be incestuous and void, and knowing of such
consanguinity or relationship,

did have sexual intercourse with the said E. B., or did live with her in a state of
adultery, against, etc.; or A. B., a man,

and C. D., a woman, being within the degree of relationship within which marriages
are declared by law to be

incestuous and void, to-wit, the said C. D., being the widow of one E. F., the uncle of
the said A. B., and, knowing

of such relationship, did intermarry, or have sexual intercourse together, or did live
together in adultery, against, etc.

(62) Keeping, etc., gaming tables.

A. B. kept, exhibited or was interested or concerned in keeping or exhibiting a gaming
table for gaming.

(63) Kidnapping.

A. B. unlawfully or forcibly inveigled, enticed or confined C. D., with intent to cause
said C. D. to be imprisoned

against his will, or to be sent out of the state against his will, etc., as the case may be.

(64) Living in adultery or fornication.

A. B., a man, did live with C. D., a woman, in a state of adultery or fornication; or A.
B., a man, and C. D., a

woman, did live together in a state of adultery or fornication.

(65) Carrying on, etc., lottery.

A. B. set up or was concerned in setting up or carrying on a lottery.

(66) Maintaining or permitting liquor nuisance on premises.

A. B. did maintain or carry on or knowingly allow his property or premises to be used
as a liquor nuisance for the

manufacture, storage, receipt or disposition or handling of intoxicating or prohibited
liquors contrary to law, against,

etc.

(67) Malicious, etc., injury to animals.

A. B. unlawfully, wantonly or maliciously killed, disabled, disfigured or injured a
cow, the property of C. D.; or A. B.

unlawfully, wantonly or maliciously destroyed or injured … , the property of C.
D.

(68) Manslaughter in the first degree.

A. B. unlawfully and intentionally but without malice, killed C. D. by stabbing him
with a knife (or by striking him with

a stick, etc., as the case may be).

(69) Manslaughter in second degree.

A. B. unlawfully, but without malice or the intention to kill, killed C. D., by negligently throwing a brick from the top

of a house, (or by negligently running over him with a horse or by striking him with a stick, etc., as the case may be).

(70) Possession, etc., of still, etc.

A. B. did manufacture, sell, give away or have in his possession a still or apparatus or appliance or some device or

substitute therefor to be used for the purpose of manufacturing or distilling prohibited liquors or beverages, against,

etc.

(71) Mayhem.

A. B. unlawfully, maliciously and intentionally cut out or disabled the tongue of C. D., or put out or destroyed an eye

of C. D., etc.

(72) Murder in first degree.

A. B. unlawfully, and with malice aforethought, killed C. D., by shooting him with a gun or pistol (or by striking him

with an iron weight, or by throwing him from the top of a house or by pushing him into the river, whereby he was

drowned, etc., as the case may be).

(73) Murder in second degree.

A. B. unlawfully and with malice aforethought killed C. D. by shooting him with a gun (or by other means to be

described), but without premeditation or deliberation.

(74) Murder by killing in sudden encounter with concealed weapon.

A. B. unlawfully killed C. D. in a sudden encounter, by the use of a deadly weapon concealed before the

commencement of the fight, the said A. B. being the assailant, and his adversary having no deadly weapon drawn.

(75) Perjury on trial of felony case.

A. B., on his examination as a witness, duly sworn to testify, on the trial of one C. D., in the … court of …

county, under an indictment for the murder of one E. F., which said court had authority to administer such oath,

falsely swore, etc. (stating the facts), the matters so sworn to being material, and the testimony of the said A. B. being

willfully and corruptly false.

(76) Perjury in civil case or other proceeding.

A. B., on an application for a continuance in a civil action in the … court of … county, in which one C. D.

was plaintiff and the said A. B., defendant, being duly sworn by the clerk of said court who had authority to

administer such oath, falsely swore, etc. (stating the fact), the matters so sworn to being material, and the oath of the

- said A. B. in relation to such matters, being willfully and corruptly false.
- (77) Practice of medicine, etc., without license.
A. B. did practice medicine or surgery without a license and contrary to law.
- (78) Poisoning spring, etc.
A. B. willfully or wantonly poisoned a spring of water in the yard of C. D., or a reservoir of water in the public square in the town of Tuskegee, etc.
- (79) Pools, trusts, combinations, etc.
A. B. did engage in, enter into or agree to engage in or enter into a combination, pool, trust or confederation with C.
D. in violation of section 8-10-1.
- (80) Rape.
A. B. forcibly ravished C. D., a woman, etc.
- (81) Taking, etc., rebate, etc.
A. B., an officer (agent or person authorized to purchase for the state, department or other institution named in the statutes, as the case may be), did ask or bargain for, demand, agree to take, receive or take from C. D., the seller of (here describe the property) \$5.00, (or other thing of value, describing it), as a rebate, return, compensation, discount or drawback.
- (82) Receiving, concealing, etc., stolen goods.
A. B. did buy, receive, conceal or aid in concealing, one watch of the value of … dollars, the personal property of C. D., knowing that it was stolen, and not having the intent to restore it to the owner, against, etc.
- (83) Removing dead body from grave for purpose of sale, etc.
A. B. removed from the grave the dead body of C. D., from wantonness, or for the purpose of dissection or sale.
- (84) Resisting officer in executing process.
A. B. did knowingly and willfully oppose or resist C. D., the sheriff of said county, in attempting to serve or execute a writ of execution, called a fieri facias, issued by the clerk of the circuit court of said county (or as the case may be, describing the process generally).
- (85) Destroying, etc., dwelling, etc.
A. B., C. D. and E. F., being unlawfully assembled, did demolish, pull down or destroy, or begin to demolish, pull down or destroy, a dwelling house.
- (86) Robbery.
A. B. feloniously took a gold watch, of the value of … dollars, the property of C. D., from his person, and against his will, by violence to his person, or by putting him in such fear as unwillingly to part with the same.
- (87) Sale of securities by unregistered dealer, etc.

A. B. did, contrary to law, and subsequent to the … day of …, 19…,
without first having been
registered as a dealer (or salesman) in the office of the State Securities Commission of
Alabama, sell (or offer to sell,
etc.) in this state shares of the capital stock of the X. Y. company (or otherwise
describing the securities sold, offered
for sale, etc.).

(88) Seduction.

A. B., a man, did, by means of temptation, deception, arts, flattery or promise of
marriage, seduce C. D., an
unmarried woman.

(89) Selling, giving or lending pistol, bowie knife, etc., to minor.

A. B. did unlawfully sell, give or lend a pistol or bowie knife, or other knife of like
kind or description, to C. D., a
minor, against, etc.

(90) Selling or conveying mortgaged property without consent of mortgagor.

A. B. did sell or convey personal property, consisting of one horse (or other property,
as the case may be), upon
which he had given a written mortgage, lien or deed of trust and which was then
unsatisfied, without first obtaining the
consent of the lawful holder thereof.

(91) Selling, removing, etc., personal property covered by lien or claim.

A. B., with the purpose to hinder, delay or defraud C. D., who had a lawful and valid
claim thereto, under a written
instrument, lien created by law for rent or advances or other lawful and valid claim,
verbal or written, did sell or
remove personal property, consisting of one bale of cotton (or other property, as the
case may be), of the value of
\$10.00, the said A. B., having at the time a knowledge of the existence of such claim.

(92) Selling, etc., of unregistered securities.

A. B. did, contrary to law, and subsequent to the … day of …, sell (or
offer to sell, etc.) in this state,
shares of the capital stock of the X. Y. company (or otherwise describing the security
sold, offered for sale, etc.),
which said stock (or other security) had not then been registered and recorded in the
register of the Alabama
Securities Commission.

(93) Setting off explosive near, etc., dwelling house, etc.

A. B. willfully set off or exploded dynamite or other explosive in, under or
dangerously near to the dwelling house of
C. D., in which there was at the time a human being.

(94) Setting off explosive near, etc., uninhabited dwelling, etc.

A. B. willfully set off or exploded dynamite or other explosive in, under or
dangerously near to the uninhabited
dwelling house of C. D. in which there was at the time no human being.

(95) Crime against nature.

A. B., against the order of nature, carnally knew C. D.; or A. B., against the order of nature, carnally knew a certain
beast, to-wit, a cow, against, etc.

(96) Soliciting, etc., order for prohibited liquor.

A. B. did solicit or receive from C. D. an order for prohibited liquors.

(97) Engaging in hunting, etc., on Sunday.

A. B. unlawfully engaged in hunting or shooting (or gaming, or card playing or racing, as the case may be); or, being

a merchant or shopkeeper, and not a druggist, kept open store, or did compel his child (or apprentice or servant, in

the alternative, as the case may be) to perform labor not the customary duties of daily necessity or comfort or works

of charity on Sunday, against, etc.

(98) Trespass after warning.

A. B., without legal cause or good excuse, entered into the dwelling house or on the premises of C. D., after having

been warned within six months preceding not to do so; or, A. B., having entered into the dwelling house or on the

premises of C. D., failed or refused, without legal cause or good excuse, to immediately leave upon being ordered or

requested to do so by C. D., or the person in possession, his agent or representative.

(99) Using firearms while fighting in public place.

A. B., while fighting at a militia muster (or in a street of the city of Mobile or at a public place, as the case may be)

used, or attempted to use a pistol (or gun, as the case may be), not in self-defense, etc.

(100) Voluntary permitting of escape by sheriff.

A. B., while sheriff of said county, having the legal custody of one C. D., who was charged with burglary (or indicted

for robbery, as the case may be), voluntarily permitted the said C. D. to escape.

(101) Voting illegally.

A. B. voted more than once, or deposited more than one ballot as his vote for the same office (or, not being 18 years

of age, unlawfully voted), at the last general election held in this state (or the kind of election may be designated, as

the case may be), against, etc.

(102) Cattle theft.

A. B. feloniously took and carried away a cow (or an animal of the cow kind), the personal property of C. D.

Code 1852, §591; Code 1867, §4141; Code 1876, §4824; Code 1886, §4899; Code 1896, §4923; Code 1907, §7161; Acts 1915, No. 93, p. 136; Acts 1920, No. 120, p. 163; Code 1923, §4556; Acts 1927, No. 479, p. 552; Acts 1935, No. 378, p. 802; Acts 1936, Ex. Sess., No. 50, p. 28; Code 1940, T. 15, §259; Acts 1961, Ex. Sess., No. 238, p. 2251, §2.)

TITLE 34. PROFESSIONS AND BUSINESSES

CHAPTER 6. BILLIARD ROOMS

ARTICLE 1. GENERAL PROVISIONS

Section 34-6-7

Secret doors, connections, etc.

It shall be unlawful for any billiard room to maintain, or permit to be maintained, any open or secret connections, through doors, windows or trapdoors, panels, stairways or other devices within any place where gambling is conducted or where persons congregate for immoral purposes.

(Acts 1923, No. 230, p. 224; Code 1923, §4267; Code 1940, T. 14, §249.)

Section 34-6-12

Gambling and sale of liquor in billiard room prohibited.

No dice, cards, dominoes or other games of chance shall be permitted, nor any form of gambling allowed in any billiard room, or in any room in which billiard tables are located, or in any cigar store or other business located in the same room; and no game prohibited by law shall be played in such premises, and it is expressly provided that such games as are now known as Kelly pool, keno, star pool, scrub and similar gambling devices are expressly prohibited, and that no racing or other betting pool shall be exhibited, permitted or sold in such place of business, and that no intoxicating liquors shall be sold, served or allowed to be used in or on the premises. In counties having populations of not less than 56,500 nor more than 59,000, according to the 1970 or any subsequent federal decennial census, domino games shall be lawful in billiard rooms or other rooms in which billiard tables are located.

(Acts 1923, No. 230, p. 224; Code 1923, §4264; Code 1940, T. 14, §246; Acts 1963, No. 390, p. 891; Acts 1971, No. 1109, p. 1939.)

Section 34-6-13

Permitting gambling device in billiard room; penalty.

Any licensee under this article, who knows, or is interested in, or knowingly permits any gambling device mentioned in Section 34-6-12, now prohibited by law, in any billiard room, or who knowingly permits any billiard table to be used for gambling shall be guilty of a misdemeanor and, on conviction thereof, shall for a first offense be fined not less than $50.00 nor more than $500.00 or may be sentenced to hard labor for the county for not more than 12 months and, on a second conviction, shall be guilty of a felony and shall be fined not less than $100.00 and sentenced to the penitentiary for not less than one and not more than two years.

(Acts 1923, No. 230, p. 224; Code 1923, §4272; Code 1940, T. 14, §254.)

ARTICLE 2. LICENSES

Section 34-6-32

Application to probate judge; bond; issuance.

No license shall be issued to any person to operate any billiard room to which the public has access for amusement and recreation who is not 19 years of age and a citizen of the United States or who has been convicted of a felony. Application for license to operate a billiard room shall be first made to the probate judge of the county in which the applicant proposes to conduct said business, in the form hereafter provided, and no license shall be issued by any city or town to any person to engage in such business until after such person has made application to and has been granted a license by the probate judge of the county in which such city or town is located. Every application for license shall be accompanied by the affidavit of the applicant, sworn to before an officer authorized by law to administer oaths: that the applicant is a citizen of the United States, that he is of good moral character, that he has not been convicted of a felony, that he will not permit vagrants or any person under the influence of intoxicating liquors to frequent or play in his place of business, that the applicant will have sole personal charge and management of said business and that he will not permit public gambling in such place of business or permit the above described tables to be used in any manner other than as provided by law. There shall also be filed with such application a bond in the penal sum of $1,000.00, payable to the State of Alabama and conditioned upon the

faithful performance of all provisions of this chapter, signed by the applicant as principal and either a surety company or two individuals as sureties, which bond must be approved by the probate judge and filed in his office. When said application and bond have been filed and approved as aforesaid, the probate judge shall issue license for the current year, or unexpired portion thereof, upon the payment of the license fees provided by the general laws of the State of Alabama.

(Acts 1923, No. 230, p. 224; Code 1923, §4257; Code 1940, T. 14, §239.)

TITLE 41. STATE GOVERNMENT

CHAPTER 9. BOARDS AND COMMISSIONS

ARTICLE 23. CRIMINAL JUSTICE INFORMATION CENTER COMMISSION

DIVISION 2. COLLECTION, DISSEMINATION, ETC., OF CRIMINAL DATA

Section 41-9-622

Report, collection, dissemination, etc., of data pertaining to persons arrested or convicted of felonies or certain misdemeanors generally.

The commission may obtain, compare, file, analyze, and disseminate, and all state, county, and municipal criminal justice agencies are required to report fingerprints, descriptions, photographs, and any other pertinent identifying and historical criminal data on the following persons:

(1) Persons who have been or are hereafter arrested or convicted in this state or any state for an offense which is a felony or an offense which is a misdemeanor escalating to a felony involving, but not limited to: possession of burglary tools or unlawful entry; engaging in unlawful commercial gambling; dealing in gambling; dealing in gambling devices; contributing to the delinquency of a child; robbery, larceny or dealing in stolen property; possession of controlled substances and illegal drugs, including marijuana; firearms; dangerous weapons; explosives; pandering; prostitution; rape; sex offenses, where minors or adults are victims; misrepresentation; fraud; and worthless checks.

(2) Persons who have been or are hereafter adjudicated a serious juvenile offender pursuant to Section 12-15-71.1 or

adjudicated delinquent for an act which would constitute a Class A or B felony if it had been committed by an adult.

(Acts 1975, No. 872, §11; Acts 1996, No. 96-524, p. 677, §1.)