

ARKANSAS

TITLE 3. ALCOHOLIC BEVERAGES

CHAPTER 4. ALCOHOLIC BEVERAGES GENERALLY – PERMITS

SUBCHAPTER 4. VIOLATIONS

§ 3-4-404. Class B violations.

The following acts on the part of the permittee are Class B violations:

- (1) Pledge, hypothecation, or use of a permit as collateral;
- (2) Defacing, destroying, or altering a permit;
- (3) Transporting controlled beverages in violation of regulations or law;
- (4) Manufacturing, selling, offering, dispensing, or giving away, possessing, or transporting of controlled beverages upon which tax is not paid;
- (5) Failure to maintain proper records by a manufacturer;
- (6) Failure by a wholesaler to maintain proper records;
- (7) Failure by a wholesaler to register new brands;
- (8) Giving of samples by a permittee without authorization;
- (9) Sales for anything other than cash or check;
- (10) Delivery without an invoice by a wholesaler;
- (11) Selling to minors;
- (12) Selling to the insane;
- (13) Selling to bootleggers;
- (14) Accepting food stamps in payment for controlled beverages;
- (15) Unauthorized employment of minors;

(16) Any disorderly conduct or a breach of the peace by patrons or employees on the permitted premises. Such

disorderly conduct shall include, but not be limited to, fights, brawls, or disturbances which result in bodily injury to any degree to any person on the premises;

(17) Violation of § 3-3-218, failure to be a good neighbor;

(18) Selling to an intoxicated person;

(19) Unauthorized manufacturing, selling, offering, dispensing, or giving away of controlled beverages;

(20) Unlawful manufacture or sale in a dry area;

(21) Conducting or permitting gambling on premises;

(22) Violation of legal closing hours;

(23) Sale of controlled beverages by vending machine;

(24) Possession of a weapon on the permitted premises by any person without a possessory or proprietary interest in the permitted premises.

History. Acts 1981, No. 790, § 2; A.S.A. 1947, § 48-346; Acts 1991, No. 605, § 2; 1993, No. 172, § 3.

CHAPTER 5. BEER AND WINE – MANUFACTURE, SALE, AND TRANSPORTATION GENERALLY

SUBCHAPTER 2. BEER AND LIGHT WINE

§ 3-5-221. Miscellaneous prohibited practices - Penalties.

(a)(1) Any person being either a retail dealer or who knowingly places in his stock or who brings upon his premises, who has

in his possession or who sells or offers for sale any beer or wine on which the tax provided by law has not been paid shall, in

addition to the other fines, penalties, and forfeitures, be subject to penalty of twenty-five dollars (\$25.00) for each package of untaxed liquor so held or offered for sale.

(2) The penalty shall be in the nature of liquidated damages and may be collected by civil action.

(b) It shall be unlawful for any brewer or distributor of light wines or beer to manufacture or knowingly bring upon his premises and keep thereon any beer or wine of an alcoholic content in excess of five percent (5%) by weight or any distilled spirits of any alcoholic content whatsoever.

(c) Any person who shall add to or mix with any beer or wine as defined in this subchapter, any alcoholic or any other liquid, any alcohol cube or cubes, or any other ingredient or ingredients that will increase or tend to increase the alcoholic content or who shall knowingly offer any such liquor for sale shall be guilty of a misdemeanor and shall be fined in any sum not less than one hundred dollars (\$100).

(d)(1) It shall be unlawful for a licensee or for any agent, servant, or employee of a licensee:

(A) To suffer or permit any dice to be thrown for money or for anything of value or to suffer or permit gambling with cards, dominoes, raffle, or other games of chance, or any form of gambling in the place designated by the license or in any booth, room, yard, garden, or other place appurtenant thereto;

(B) To suffer or permit the licensed premises to become disorderly;

(C) To sell, barter, furnish, or give away to any minor under the age of twenty-one (21) years any wine or beer;

(D) To sell, barter, furnish, or possess in the place designated by the license, or in any booth, yard, or garden, any alcoholic liquors or beverages containing in excess of five percent (5%) of alcohol by weight, or to permit any such acts to be done;

(E) To permit any immoral or lascivious conduct on the part of the patrons or others at or in the licensed premises, or in any place appurtenant thereto; or

(F) To suffer or permit the use of any profane, violent, abusive, or vulgar language at or in such licensed premises, or in any place appurtenant thereto.

(2) The acts and conduct of the agents, servants, and employees of a licensee in the conduct of the business shall be deemed the acts and conduct of the licensee.

(3) Any violation of the provisions of this subsection shall constitute a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500) and not more than one (1) year in jail, and each day the offense shall be continued shall constitute a separate offense.

History. Acts 1933 (1st Ex. Sess.), No. 7, §§ 16, 19, 26; 1937, No. 261, § 1; Pope's Dig., §§ 14208, 14211, 14218; A.S.A. 1947, §§ 48-522 - 48-524.

SUBCHAPTER 3. BEER – LICENSING OF RETAILERS

§ 3-5-307. Prohibited practices.

No holder of a license authorizing the sale of beer for consumption on the premises where sold or any servant, agent, or employee of the licensee shall do any of the following upon the licensed premises:

- (1) Knowingly sell beer or wine to a minor;
- (2) Knowingly sell beer or wine to any person while the person is in an intoxicated condition;
- (3) Sell beer or wine upon the licensed premises or permit beer to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law;
- (4) Permit any prostitute to frequent the licensed premises;
- (5) Permit gambling or games of chance upon the licensed premises;
- (6) Permit on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral, or improper entertainment, conduct, or practices;
- (7) Sell, offer for sale, or permit the sale on the licensed premises of any kind of alcoholic liquors, except wine and beer; or
- (8) Permit the consumption on the licensed premises of wine or any other kind of alcoholic liquor, except beer.

History. Acts 1943, No. 244, § 2; 1945, No. 119, § 1; A.S.A. 1947, § 48-529.

CHAPTER 9. ON-PREMISES CONSUMPTION

SUBCHAPTER 2. ALCOHOLIC BEVERAGES

§ 3-9-236. Permittees - Miscellaneous unlawful practices.

It shall be unlawful and constitute a misdemeanor for any person holding a permit hereunder or his agents, servants, or employees knowingly to do any of the following acts:

- (1) Serve any alcoholic beverage to a person who is under the age of twenty-one (21) years;
- (2) Serve any alcoholic beverage to an intoxicated person, to any person who is known to be insane or mentally defective, to any person who is known to habitually drink alcoholic beverages to excess, or to any person who is known to be an habitual user of narcotics or other habit-forming drugs;
- (3) Sell alcoholic beverages at any prohibited time;
- (4) Place any sign of any description on the exterior of the permitted premises indicating that alcoholic beverages are sold for consumption therein;
- (5) Misrepresent the brand of any alcoholic beverage sold or offered for sale;
- (6) Keep any alcoholic beverage otherwise than in the bottle or container in which it was purchased;
- (7) Refill or partly refill any bottle or container of alcoholic beverage;
- (8) Dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage;
- (9) Fail to break and destroy by the close of each business day all empty bottles or containers;
- (10) Remove or obliterate any label, mark, or stamp affixed to any bottle or container of alcoholic beverage offered for sale;

(11) Deliver or sell the contents of any bottles or containers, the label, mark, or stamp upon which has been removed or obliterated;

(12) Employ any person less than twenty-one (21) years of age in the mixing or serving of alcoholic beverages. Nothing herein shall prohibit a minor eighteen (18) years of age or older to be employed as a musician, or to be employed in the preparation or serving of food, or in the housekeeping department of any establishment authorized to dispense mixed drinks under this subchapter;

(13) Allow any immoral, lewd, obscene, indecent, or profane conduct, language, literature, pictures, or materials on the permitted premises;

(14) Consume or allow the consumption by any employee of intoxicating beverages while on duty;

(15) Keep on the permitted premises a slot machine or any gambling or gaming device, machine, or apparatus;

(16) Sell any alcoholic beverage unless the beverage is owned outright by the permittee;

(17) Employ any person in the serving of alcoholic beverages who has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of intoxicating liquor or any crime involving moral turpitude;

(18) Violate any rule, regulation, or order of the board;

(19) Fail to report all taxes applicable to the sale of alcoholic beverages for on-premises consumption;

(20) Possess on the permitted premises or sell or dispense any alcoholic beverages upon which the federal or state taxes have not been paid.

History. Acts 1969, No. 132, § 14; 1971, No. 467, § 1; A.S.A. 1947, § 48-1414.

TITLE 5. CRIMINAL OFFENSES

SUBTITLE 6. OFFENSES AGAINST PUBLIC HEALTH, SAFETY OR WELFARE

CHAPTER 66. GAMBLING

§ 5-66-101. Construction of statutes.

The judges of the several courts in this state shall, in their construction of the statutes prohibiting gaming, construe the same liberally, with a view of preventing persons from evading the penalty of the law by changing of the name or the invention of new names or devices that now are, or may hereafter be, brought into practice, in any and in all kinds of gaming, and all general terms of descriptions shall be so construed as to have effect, and include all such games and devices as are not specially named; and in all cases, when construction is necessary, it shall be in favor of the prohibition and against the offender.

History. Rev. Stat., ch. 44, div. 6, art. 3, § 13; C. & M. Dig., § 2645; Pope's Dig., § 3335; A.S.A. 1947, § 41-3265.

§ 5-66-102. Duty of officer.

When it shall come to the knowledge of any sheriff, coroner, or constable, or either of their deputies, that any person is guilty of any of the offenses created or prohibited by this section and §§ 5-66-101, 5-66-104 - 5-66-107, and 5-66-109, it shall be their duty to give notice thereof to any judge or justice of the peace for the county who shall:

(1) Issue his warrant and cause the offender to be brought before him;

(2) Examine the matter in a summary manner; and

(3) Discharge, bail, or commit the offender, as the circumstances and the right of the case may require.

History. Rev. Stat., ch. 44, div. 6, art. 3, § 9; C. & M. Dig., § 2642; Pope's Dig., § 3332; A.S.A. 1947, § 41-3264.

§ 5-66-103. Gambling houses.

(a) Every person who shall keep, conduct, or operate, or who shall be interested, directly or indirectly, in keeping, conducting, or operating any gambling house or place where gambling is carried on, or who shall set up, keep, or exhibit or cause to be set up, kept, or exhibited or assist in setting up, keeping, or exhibiting any gambling device, or who shall be interested directly or indirectly in running any gambling house or in setting up and exhibiting any gambling device or devices, either by furnishing money, or other articles for the purpose of carrying on any gambling house shall be deemed guilty of a felony and on conviction shall be confined in the Department of Correction for not less than one (1) year nor more than three (3) years.

(b) If any sheriff or deputy sheriff knows or is informed that a gambling house is being operated or that any person is engaged in the exhibiting of a gambling device within his county, it shall be his duty to immediately proceed to the place where such gambling house is located and arrest the person engaged in running or operating the gambling house and to bring such person before some magistrate or court having jurisdiction to examine into the matter; and upon such sheriff, or deputy sheriff, failing to comply with the provisions of this subsection, he shall be deemed guilty of a misdemeanor and shall be fined in any sum not less than one hundred dollars (\$100) and shall be discharged from office.

History. Acts 1913, No. 152, §§ 1, 2; C. & M. Dig., §§ 2632, 2633; Pope's Dig., §§ 3322, 3323; A.S.A. 1947, §§ 41-3251, 41-3252.

§ 5-66-104. Gaming devices - Prohibition.

Every person who shall set up, keep, or exhibit any gaming table or gambling device, commonly called A. B. C., E. O., roulette, rouge et noir, or any faro bank, or any other gaming table or gambling device, or bank of the like or similar kind, or of any other description although not herein named, be the name or denomination what it may, adapted, devised, or designed for the purpose of playing any game of chance, or at which any money or property may be won or lost, shall be deemed guilty of a misdemeanor and on conviction shall be fined in any sum not less than one hundred dollars (\$100) and may be imprisoned any length of time not less than thirty (30) days nor more than one (1) year.

History. Rev. Stat., ch. 44, div. 6, art. 3, § 1; C. & M. Dig., § 2630; Pope's Dig., § 3320; A.S.A. 1947, § 41-3253.

§ 5-66-105. Gaming devices - Financial interest.

If any person shall in any way, either directly or indirectly, be interested or concerned in any gaming prohibited by § 5-66-104, either by furnishing money or other articles for the purpose of carrying on gaming, or being interested in the loss or gain of such prohibited gaming, he shall be deemed guilty of a misdemeanor and on conviction shall be fined as in § 5-66-104.

History. Rev. Stat., ch. 44, div. 6, art. 3, § 2; C. & M. Dig., § 2631; Pope's Dig., § 3321; A.S.A. 1947, § 41-3254.

§ 5-66-106. Gaming devices - Betting.

If any person shall be guilty of betting any money or other valuable thing or any representative of any thing that is esteemed of value, on any of the games prohibited by § 5-66-104, on conviction he shall be fined in any sum not exceeding one hundred dollars (\$100) nor less than fifty dollars (\$50.00).

History. Rev. Stat., ch. 44, div. 6, art. 3, § 3; C. & M. Dig., § 2634; Pope's Dig., § 3324; A.S.A. 1947, § 41-3255.

§ 5-66-107. Gaming devices - In buildings or on vessels.

If the owner or occupant of any house, outhouse, or other building or any steamboat, or other vessel shall knowingly permit or suffer any of the before mentioned games, tables, or banks or shall suffer any kind of gaming under any name whatsoever, to be carried on or exhibited in their houses, or outhouses or other buildings, or on board of any steamboat, flatboat, keelboat, or other vessel on any of the waters within this state, on conviction, every such owner or occupant shall be punished as provided in § 5-66-104.

History. Rev. Stat., ch. 44, div. 6, art. 3, § 4; C. & M. Dig., § 2635; Pope's Dig., § 3325; A.S.A. 1947, § 41-3256.

§ 5-66-108. Gaming devices - Search warrants.

(a) It is made and declared to be the duty and required of the judges of the circuit courts, the presiding judges of the county courts, and also of the justices of the peace, on information given or on their own knowledge, or where they have reasonable ground to suspect, that they issue their warrant to the sheriff, coroner, or constable as the case may be most convenient, directing in the warrant a search for gaming tables, or devices hereinbefore mentioned or referred to, and, directing that on finding any, the devices shall be publicly burned by the officer executing the warrant.

(b) The officer executing a warrant, and burning, by virtue thereof, any gaming device, as required in subsection (a) of this section, shall, on his making his return to the officer who issued the warrant, and getting the statement of such judge or justice, that the warrant had been returned to him duly executed by the burning of any gaming device, stating what or describing the device burnt, endorsed on the warrant, be entitled to his fees for such service, to be paid by the person keeping the gambling table.

History. Rev. Stat., ch. 44, div. 6, art. 3, §§ 6, 7; C. & M. Dig., §§ 2637, 2638; Pope's Dig., §§ 3327, 3328; A.S.A. 1947, §§ 41-3259, 41-3260.

§ 5-66-109. Gaming devices - Vagrants.

(a) All keepers or exhibitors of any gaming table, bank, or other gambling device and all persons who travel or remain in steamboats, or go about from place to place for the purpose of gaming shall be deemed and treated as vagrants.

(b) All and every keeper or exhibitor of either of the gaming tables, called A. B. C. or E. O. or any other table distinguished or known by any other name, letter, or figure, such as faro bank, rouge et noir, or any gaming bank, of the same or like kind, with, or without a name, shall be deemed and rated as vagrants.

History. Rev. Stat., ch. 44, div. 6, art. 3, § 5; Rev. Stat., ch. 154, § 2; C. & M. Dig., §§ 2636, 2802; Pope's Dig., §§ 3326, 3506; A.S.A. 1947, §§ 41-3257, 41-3258.

§ 5-66-110. Keno, etc.

(a) If any person shall set up or exhibit, or cause to be set up or exhibited, or aid or assist in setting up or exhibiting in any county, city, or town in the state, any gaming device commonly known and designated as "keno" or any similar device, by any other name or without a name, each person so setting up or exhibiting such device, or aiding or assisting in exhibiting or setting up such device, shall be guilty of a misdemeanor, and on indictment and conviction before the circuit court or on conviction before a justice of the peace, shall be fined in any sum not less than two hundred dollars (\$200) for benefit of the common school fund.

(b)(1) It shall be the duty of each prosecuting attorney in this state who knows or is informed of any person exhibiting or setting up, or aiding or assisting in setting up any device described in subsection (a) of this section in his district, to take immediate steps to have such person immediately arrested for trial, and the prosecuting attorney shall have such person arrested as above provided for each separate offense done or committed on every separate day.

(2) If any prosecuting attorney who knows or is informed of any violation of this section shall refuse or neglect to cause the arrest and trial of the person so offending within five (5) days next after he knows or is informed of the offense, he shall, on indictment and conviction, be fined in any sum not less than five hundred dollars (\$500).

(c)(1) It shall be the duty of every justice of the peace, knowing or being informed of any violation of subsection (a) of this section, in his township, for which the parties have not been arrested or tried under the provisions of this section, to cause the arrest and trial of the person so offending, for each separate offense done or committed against the provisions of this section.

(2) If any justice of the peace who knows or is informed of any violation of subsection (a) of this section in his township shall refuse or neglect to cause the arrest and trial of the person so violating the same, within five (5) days next after he is informed of the same, he shall be guilty of a misfeasance in office, and, on indictment and conviction, the circuit court shall remove him from office.

(d) No license granted by any city or town shall be a bar to any prosecution or conviction under the provisions of this section or any excuse, protection, or justification for any justice of the peace or prosecuting attorney failing to carry out the same.

History. Acts 1877, No. 71, §§ 1-5, 7, p. 70; C. & M. Dig., §§ 2646-2651; Pope's Dig., §§ 3336-3341; A.S.A. 1947, §§ 41-3266 - 41-3271.

§ 5-66-111. Pinball machines, etc.

(a) Any coin-operated pinball machine or other device which is designed so that more than one (1) coin can be inserted so as to give the player additional odds in making a high score or winning additional free games is unlawful, and the operation thereof shall be a misdemeanor which shall be punishable by the imposition of a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for not more than one (1) year, or both.

(b) It is the intent of this section to prohibit the use of so-called "bingo"-type pinball machines, the interstate transportation of which is prohibited by 15 U.S.C. § 1172.

(c) Coin-operated amusement devices, including pinball machines, which will take only one (1) coin for each player for each game and which are equipped with flippers which can be activated by the player to propel a ball back onto the playing surface of the machine so as to prolong the playing time and increase the score attained by the player and upon which not more than twenty-five (25) free games can be won by the player are specifically designated as amusement devices and their use is declared to be legal so long as all state and municipal taxes have been paid and the owner thereof has obtained a permit, filed a bond, and paid the privilege tax required by § 26-57-401 et seq.

History. Acts 1977, No. 283, §§ 1, 2; A.S.A. 1947, §§ 41-3201, 41-3202.

§ 5-66-112. Card games - Betting.

If any person shall be guilty of betting any money or any valuable thing on any game of brag, bluff, poker, seven-up, three-up,

twenty-one, vingt-et-un, thirteen cards, the odd trick, forty-five, whist, or at any other game at cards, known by any name now known to the law, or with any other or new name or without any name, he shall, on conviction, be fined in any sum not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

History. Rev. Stat., ch. 44, div. 6, art. 3, § 8; C. & M. Dig., § 2639; Pope's Dig., § 3329; A.S.A. 1947, § 41-3261.

§ 5-66-113. Games of hazard or skill - Betting.

(a) If any person shall be guilty of betting any money or any valuable thing on any game of hazard or skill, he shall on conviction be fined in any sum not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00).

(b) In prosecuting under subsection (a) of this section it is sufficient for the indictment to charge that the defendant bet money or other valuable thing on a game of hazard or skill, without stating with whom the game was played.

History. Acts 1855, §§ 1, 2, p. 270; C. & M. Dig., §§ 2640, 2641; Pope's Dig., §§ 3330, 3331; A.S.A. 1947, §§ 41-3262, 41-3263.

§ 5-66-114. Sports or games - Transmission of information.

(a) It shall be unlawful for any person, partnership, or corporation to receive or transmit information in the State of Arkansas relating to football, baseball, basketball, hockey, polo, tennis, horse racing, boxing, or any other sport or game for the purpose of gaming.

(1) This section shall not apply to radio stations or newspapers disseminating such information as news, entertainment, or advertising medium.

(2) The provisions of this section shall not apply to any commission conducting a legalized race meet within the State of Arkansas.

(b) Any teletype, telegraph ticker tape, or similar machine or device used in the transmitting or receiving of information relating

to games or sports as set out in subsection (a) of this section, which is used either directly or indirectly for the purpose of gaming, is defined and declared to be a "gaming device".

(c) Any person who violates the provisions of this section and any teletype, telegraph ticker tape, or similar machine or device when used for gaming purposes, as defined in this section, shall be subject to the procedure and penalties as set out in §§ 5-66-101 - 5-66-110, 5-66-112, 5-66-113, 5-66-116, and 5-66-118.

History. Acts 1953, No. 355, §§ 1-3; A.S.A. 1947, §§ 41-3282 - 41-3284.

§ 5-66-115. Sports or games - Bribery of participants.

Whoever gives, promises, or offers to any professional or amateur baseball, football, hockey, polo, tennis, or basketball player or boxer or any player who participates or expects to participate in any professional or amateur game or sport or any jockey, driver, groom, or any person participating or expecting to participate in any horse race, including owners of race tracks and their employees, stewards, trainers, judges, starters, or special policemen, or to any manager, coach, or trainer of any team or participant or prospective participant in any such game, contest, or sport any valuable thing with intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in a baseball, football, hockey, or basketball game, boxing, tennis, or polo match or a horse race or any professional or amateur sport or game in which such player or participant or jockey or driver is taking part or expects to take part or has any duty or connection therewith, or who, being a professional or amateur baseball, football, hockey, basketball, tennis, or polo player, boxer, or jockey, driver, or groom or participant or prospective participant in any sport or game or a manager, coach, or trainer of any team or individual participant or prospective participant in any such game, contest, or sport solicits or accepts any valuable thing to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in a baseball, football, hockey, or basketball game or boxing, tennis, or polo match or horse race or any game or sport in which he is taking part or expects to take part or has any duty or connection therewith, commits a Class D felony.

History. Acts 1951, No. 250, § 1; 1975, No. 928, § 9; A.S.A. 1947, § 41-3288.

§ 5-66-116. Horseracing - Betting.

(a) It shall be unlawful to bet in this state, directly or indirectly, by selling or buying pools or otherwise, any money or other valuable thing, on any horse race of any kind whether had or run in this state or out of this state.

(b)(1) Any person who shall violate subsection (a) of this section shall be deemed guilty of a misdemeanor and:

(A) For the first offense, on conviction shall be fined in any sum not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00);

(B) For the second offense, on conviction shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100);

(C) For all offenses after the second, on conviction shall be fined in any sum not more than five hundred dollars (\$500) and imprisoned in the county jail for a term of not less than thirty (30) days nor more than six (6) months.

(2) Every bet, wager, sale of pools, or purchase of pools shall be deemed a separate offense.

(c) It shall be the duty of circuit judges and prosecuting attorneys of this state, and the grand juries and mayors of the cities and towns of this state, and the policemen and marshals of the cities and towns, and the justices of the peace, sheriffs, and constables to enforce the provisions of this section, when it is violated in their presence or when the information of the violation is brought to their knowledge by affidavit or otherwise.

(d) If any sheriff, constable, or policeman shall refuse or neglect to at once arrest and bring before some court of competent jurisdiction for trial any person who violates this section, when the knowledge of the violation shall be brought to their attention by the affidavit of any resident of the county where said offense is committed, such sheriff, constable, or policeman shall be deemed guilty of nonfeasance in office and on conviction shall be fined in any sum not more than five hundred dollars (\$500) and shall be removed from office.

History. Acts 1907, No. 55, §§ 1-4, p. 134; C. & M. Dig., §§ 2669-2672; Pope's Dig., §§ 3355-3358; A.S.A. 1947, §§ 41-3278 -

41-3281.

§ 5-66-117. Horseracing - Agency service wagering.

(a) Every person who, either for himself or as agent or employee of another, places, offers, or agrees to place, either in person or by messenger, telephone, or telegraph, a wager on behalf of another person, for a consideration paid or to be paid by or on behalf of the other person, on a thoroughbred horse race being conducted in or out of this state shall be deemed guilty of a Class D felony.

(b) It shall be a defense to prosecution under this section if a defendant can prove that his wager on behalf of another person was of a casual nature with no profit motive and merely an accommodation to the other party.

History. Acts 1977, No. 791, §§ 1, 2; A.S.A. 1947, §§ 41-3203, 41-3204.

§ 5-66-118. Lottery, etc. - Tickets.

(a) It shall be unlawful for any person to:

(1) Keep an office, room, or place for the sale or disposition of lottery, policy, and gift concert tickets or slips or like devices;

(2) Vend, sell, or otherwise dispose of any lottery, policy, or gift concert ticket, slip, or like device;

(3) Possess any lottery, policy, or gift concert ticket or slip or like device, except a lottery ticket issued in another state where a lottery is legal; or

(4) Be interested either directly or indirectly in the sale or disposition of any lottery, policy, or gift concert ticket or slip or like device.

(b) In any prosecution or investigation under this section, it shall be no exemption for a witness that his testimony may incriminate himself, but no such testimony given by the witness shall be used against him in any prosecution except for perjury,

and he shall be discharged from liability for any violation of the law upon his part disclosed by his testimony.

(c)(1) The General Assembly recognizes that the present laws relating to lotteries are vague in certain areas and, although designed to prohibit the operation of lotteries in the state, may be interpreted to prohibit even the printing of lottery tickets by companies in this state for distribution in other states where lotteries are legal; that there are companies in this state which print various types of tickets, stamps, tags, coupon books, and similar devices and which may be interested in printing lottery tickets for states in which lotteries are lawful; and that it is the intent and purpose of this subsection to clarify the present law relating to lotteries to specifically permit businesses in Arkansas to print lottery tickets for use in states where lotteries are lawful.

(2) The printing or other production of lottery tickets by businesses located in Arkansas for use in states in which lotteries are permitted is declared to be lawful, and nothing contained in this section and § 5-66-119 or any other law shall be construed to make such printing or production unlawful.

(d) Any person who shall violate any provisions of this section shall be guilty of a misdemeanor and on conviction shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

History. Acts 1939, No. 209, §§ 1-6; A.S.A. 1947, §§ 41-3272 - 41-3277; Acts 1987, No. 835, §§ 1, 2; 1993, No. 1053, § 1.

§ 5-66-119. Lottery - Promotion through sales.

(a) Every person who shall in this state, directly or indirectly, set up, promote, engage in, or in any manner participate in any plan, scheme, device, or other means, either alone or in concert with any other person, firm, or corporation, either within or without the State of Arkansas, whereby goods, property, or any other thing of value is sold to any person, firm, or corporation for any consideration, either cash or otherwise, and upon the further consideration that the purchaser shall agree to obtain one (1) or more persons to participate in the plan, scheme, device, or other means by making a similar purchase and a similar agreement to secure one (1) or more other persons to participate therein in the same manner, each purchaser being given the right to obtain

money, credits, goods, or some other thing of value, depending upon the number of persons joining in or participating in the plan,
scheme, device, or other means, is declared to have set up, promoted, engaged in, or participated in a lottery, which is declared to
be unlawful; and the promotion, engaging in, or participation in the same shall be punishable as hereinafter provided.

(b) The chancery court of any county in which any such plan, scheme, device, or other means is set up, proposed, operated,
promoted, engaged in, or participated in may enjoin the further operation or promotion of or engagement or participation in any
such plan, scheme, device, or other means, upon complaint filed by the Attorney General of this state or any prosecuting attorney
of any county in which such a plan, scheme, device, or other means is proposed, promoted, operated, engaged in, or participated
in, or by any other interested person, on relation of the State of Arkansas; and any such injunction may be granted without bond
furnished by the plaintiff, and the court may make further orders touching upon the subject matter as it may find necessary and
desirable.

(c)(1) The General Assembly recognizes that the present laws relating to lotteries are vague in certain areas and, although
designed to prohibit the operation of lotteries in the state, may be interpreted to prohibit even the printing of lottery tickets by
companies in this state for distribution in other states where lotteries are legal; that there are companies in this state which print
various types of tickets, stamps, tags, coupon books, and similar devices and which may be interested in printing lottery tickets
for states in which lotteries are lawful; and that it is the intent and purpose of this subsection to clarify the present law relating to
lotteries to specifically permit businesses in Arkansas to print lottery tickets for use in states where lotteries are lawful.

(2) The printing or other production of lottery tickets by businesses located in Arkansas for use in states in which lotteries
are permitted is declared to be lawful, and nothing contained in this section or § 5-66-118 or any other law shall be construed
to make such printing or production unlawful.

(d) Any person who violates a provision of this section commits a Class D felony.

History. Acts 1961, No. 49, §§ 1-3; 1975, No. 928, § 10; A.S.A. 1947, §§ 41-3285 - 41-3287; Acts 1987, No. 835, §§ 1, 2.

CHAPTER 71. RIOTS, DISORDERLY CONDUCT, ETC.

SUBCHAPTER 2. OFFENSES GENERALLY

§ 5-71-213. Loitering.

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

(1) Lingers, remains, or prowls in a public place or the premises of another without apparent reason and under circumstances that warrant alarm or concern for the safety of persons or property in the vicinity and, upon inquiry by a law enforcement officer, refuses to identify himself and give a reasonably credible account of his presence and purpose; or

(2) Lingers, remains, or prowls in or near a school building, not having any reason or relationship involving custody of or responsibility for a student and not having written permission from anyone authorized to grant permission; or

(3) Lingers or remains in a public place or on the premises of another for the purpose of begging; or

(4) Lingers or remains in a public place for the purpose of unlawful gambling; or

(5) Lingers or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual activity; or

(6) Lingers or remains in a public place for the purpose of unlawfully buying, distributing, or using a controlled substance; or

(7) Lingers or remains in a public place for the purpose of unlawfully buying, distributing, or consuming an alcoholic beverage; or

(8) Lingers or remains on or about the premises of another for the purpose of spying upon or invading the privacy of another; or

(9) Lingers or remains on or about the premises of any off-site customer-bank communication terminal without any legitimate purpose.

(b) Among the circumstances that may be considered in determining whether a person is loitering are that the person:

(1) Takes flight upon the appearance of a law enforcement officer; or

(2) Refuses to identify himself; or

(3) Manifestly endeavors to conceal himself or any object.

(c) Unless flight by the actor or other circumstances make it impracticable, a law enforcement officer shall, prior to an arrest for an offense under subdivision (a)(1) of this section, afford the actor an opportunity to dispel any alarm that would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.

(d) It shall be a defense to a prosecution under subdivision (a)(1) of this section that the law enforcement officer did not afford the defendant an opportunity to identify himself and explain his presence and conduct or if it appears at trial that an explanation given by the defendant to the officer was true and, if believed by the officer at that time, would have dispelled the alarm.

(e) Loitering is a Class C misdemeanor.

History. Acts 1975, No. 280, § 2914; A.S.A. 1947, § 41-2914; Acts 1995, No. 557, § 1; 1995, No. 1107, § 1.

TITLE 6. EDUCATION

SUBTITLE 1. GENERAL PROVISIONS

CHAPTER 2. CORPORATE CHARTERS

§ 6-2-113. Prohibition on gaming and liquor sales.

(a) To protect the youth assembled at institutions organized under the provisions of this chapter, while removed from the customary restraints of home and parental watch-care, it is declared to be a misdemeanor to entice any student of such institution into the practice of gaming or to furnish any student any device or instrument for gaming or any intoxicating liquors of any kind whatever.

(b) If the institution is located in a city or any incorporated town or village, where a majority of the legal voters embraced in the

territory within three (3) miles of the institution so decide by petition to the county court, then any billiard room, bowling alley, or race course, or any device or instrument for gaming, or any brothel or house of ill-fame, or theatrical or circus exhibition, or public place where intoxicating liquors are either given away or sold, except for mechanical or medicinal purposes, within three (3) miles of the site of the institution shall be prohibited by the court.

(c) Any person who violates such regulation established by the court shall be punished by fine of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail not less than ten (10) days nor longer than three (3) months, or both, at the discretion of the court.

History. Acts 1871, No. 42, § 7, p. 196; C. & M. Dig., § 1777; A.S.A. 1947, § 64-1414.

—

TITLE 12. LAW ENFORCEMENT, EMERGENCY MANAGEMENT, AND MILITARY AFFAIRS

SUBTITLE 4. MILITARY AFFAIRS

CHAPTER 63. MILITARY PROPERTY

SUBCHAPTER 2. POLICING AND REGULATION

§ 12-63-211. Prohibition of sales, auctions, and gambling.

The commanding officer may prohibit and prevent the holding of auction or huckster sales, and all gambling within the limits of the post, camp grounds, place of encampment, parade, or drill under his command or within limits not exceeding one (1) mile therefrom as he may prescribe. He may in his discretion abate as common nuisances all such sales.

History. Acts 1969, No. 50, § 196; A.S.A. 1947, § 11-1007.

TITLE 14. LOCAL GOVERNMENT

SUBTITLE 2. FENCING AND LIVESTOCK DISTRICTS

CHAPTER 14. COUNTY GOVERNMENT CODE

SUBCHAPTER 8. LEGISLATIVE POWERS

§ 14-14-806. Powers requiring state delegation.

Each county quorum court in the State of Arkansas exercising local legislative authority is prohibited the exercise of the following powers, unless the power is specifically delegated by the General Assembly:

- (1) The legislative power to authorize a tax on income or the sale of goods or services. This subdivision shall not be construed to limit the authority of county government to levy any other tax or establish the rate of any other tax which is not inconsistent with the Arkansas Constitution or law;
- (2) The legislative power to regulate private activities beyond its geographic limits;
- (3) The legislative power to impose a duty on or regulate another unit of local government. However, nothing in this limitation shall affect the right of a county to enter into and enforce an agreement of intergovernmental cooperation;
- (4) The legislative power to regulate any form of gambling, lotteries, or gift enterprises.

History. Acts 1977, No. 742, § 74; A.S.A. 1947, § 17-3806.

SUBTITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 43. GOVERNMENT OF FIRST-CLASS CITIES

SUBCHAPTER 6. POWERS OVER MUNICIPAL AFFAIRS

§ 14-43-601. Municipal affairs delineated.

- (a)(1) For the purposes of this subchapter, the term "municipal affairs" means all matters and affairs of government germane to, affecting, or concerning the municipality or its government, except the following, which are state affairs and subject to the

general laws of the State of Arkansas:

- (A) Public information and open meetings;
 - (B) Uniform requirements for competitive bidding on contracts;
 - (C) Claims against a municipality;
 - (D) Requirements of surety bonds for financial officers;
 - (E) Collective bargaining;
 - (F) Pension and civil service systems;
 - (G) Hours and vacations, holidays, and other fringe benefits of employees;
 - (H) The definition, use, and control of surplus revenues of municipally owned utilities;
 - (I) Vacation of streets and alleys;
 - (J) Matters coming within the police power of the state including minimum public health, pollution, and safety standards;
 - (K) Gambling and alcoholic beverages;
 - (L) Traffic on or the construction and maintenance of state highways;
 - (M) Regulations of intrastate commerce including rates and terms of service of railroad, bus, and truck lines, cooperatives, and non-municipally owned utilities;
 - (N) The incorporation and merger of municipalities and annexation of territory thereto; and
 - (O) Procedure for the passage of ordinances by the governing body.
- (2) The municipality may exercise any function or legislative power upon the foregoing state affairs if not in conflict with state law.
- (b)(1) Matters of public health, which concern emergency medical services, emergency medical technicians, and ambulances, as defined in §§ 20-13-201 - 20-13-209 and 20-13-211, and ambulance companies, shall be included in the term "municipal affairs" of cities of the first class.

(2)(A) These cities shall have the authority to enact and establish standards, rules, or regulations which are equal to, or greater than, those established by the state concerning emergency medical services, emergency medical technicians, ambulances, and ambulance companies.

(B) The standards, rules, or regulations shall not be less than those established by the state for the rating of the service offered.

History. Acts 1971, No. 266, § 2; 1981 (Ex. Sess.), No. 23, § 7; A.S.A. 1947, § 19-1043.

§ 14-43-604. Gambling.

No municipality may authorize gambling.

History. Acts 1971, No. 266, § 3; A.S.A. 1947, § 19-1044.

CHAPTER 54. POWERS OF MUNICIPALITIES

SUBCHAPTER 1. GENERAL PROVISIONS

§ 14-54-103. General powers of cities and towns.

Cities and incorporated towns shall have power to:

(1) Prevent injury or annoyance within the limits of the municipal corporation from anything dangerous, offensive, or unhealthy and cause any nuisance to be abated within the jurisdiction given the board of health in § 14-262-102;

(2) Regulate the keeping and transportation of gunpowder, dynamite, and other combustibles and provide or license magazines for them;

(3) Prevent and punish fast or immoderate riding of horses or driving or propelling of vehicles through the streets;

(4) Establish and regulate markets;

(5) Provide for the measuring or weighing of hay, wood, or any other article for sale;

(6) Regulate the transportation of articles throughout the streets and prevent injury to the streets from overloaded vehicles;

(7) Prevent cruelty to animals;

(8) Prevent any riots, noise, disturbance, or disorderly assemblages;

(9)(A) Regulate drumming or soliciting persons who arrive on trains or otherwise for hotels, boardinghouses,

bathhouses, or doctors, to license these drummers, provide that each shall wear a badge plainly exposed to view, showing for whom and for what he is drumming or soliciting patronage, and punish by fines any violation of this subdivision.

(B) Any bona fide owner or proprietor of any hotel or boardinghouse may solicit patronage to his hotel or boardinghouse without being required to wear a badge or pay license therefor;

(10) License, regulate, tax, or suppress ordinaries, hawkers, peddlers, brokers, pawnbrokers, money changers, intelligence offices, public masquerade balls, street exhibitions, sparring exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private-lock venereal hospitals, museums and menageries, equestrian performances, horoscopic views, lung testers, muscle developers, magnifying glasses, billiard tables or other instruments used for gaming, theatricals, or other exhibitions, shows, and amusements, or any gift enterprise;

(11) Suppress prizefighting, dogfights, chicken fights, gaming, or gambling houses; and

(12) Regulate or suppress bawdy or disorderly houses, houses of ill-fame, or houses of assignation.

History. Acts 1875, No. 1, § 12, p. 1; 1883, No. 63, § 1, p. 97; 1901, No. 173, § 1, p. 326; C. & M. Dig., § 7529; Pope's Dig., § 9589; A.S.A. 1947, § 19-2303.

CHAPTER 55. ORDINANCES OF MUNICIPALITIES

SUBCHAPTER 1. GENERAL PROVISIONS

§ 14-55-103. Duty to enact.

It is the duty of municipal corporations to publish such bylaws and ordinances as shall be necessary to:

- (1) Secure such corporations and their inhabitants against injuries by fire, thieves, robbers, burglars, and other persons violating the public peace;
- (2) Suppress riots, gambling, and indecent and disorderly conduct; and
- (3) Punish all lewd and lascivious behavior in the streets and other public places.

History. Acts 1875, No. 1, § 22, p. 1; C. & M. Dig., § 7494; Pope's Dig., § 9543; A.S.A. 1947, § 19-2401.

TITLE 15. NATURAL RESOURCES AND ECONOMIC DEVELOPMENT

SUBTITLE 1. DEVELOPMENT OF ECONOMIC AND NATURAL RESOURCES GENERALLY

CHAPTER 11. PUBLICITY AND TOURISM

SUBCHAPTER 5. ARKANSAS TOURISM DEVELOPMENT ACT

§ 15-11-503. Definitions.

Whenever used or referred to in this subchapter, unless the context clearly indicates otherwise:

- (a) "Agreement" means an agreement entered into pursuant to § 15-11-506 of this subchapter, by and between the director and an approved company, with respect to a tourism attraction project;
- (b) "Approved company" means any eligible company that is seeking to undertake a tourism attraction project and is approved by the director pursuant to § 15-11-505 and § 15-11-506 of this subchapter;

(c) "Approved costs" mean:

- (1) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, delivery men, and material men in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;
- (2) The costs of acquiring real property or rights in real property in connection with a tourism attraction project, and any costs incidental thereto;
- (3) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, delivery man, contractor, or otherwise provided;
- (4) All costs of architectural and engineering services, including, but not limited to, estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;
- (5) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;
- (6) All costs required for the installation of utilities in connection with a tourism attraction project, including, but not limited to, water, sewer, sewage treatment, gas, electricity, and communications, and including off-site construction of utility extensions paid for by the approved company; and
- (7) All other costs comparable with those described in this subsection.

(d) "Director" means the Director of the Department of Parks and Tourism of the State of Arkansas or his designated representative;

(e) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, or business trust, or any other entity operating or intending to operate a tourism attraction

project, whether owned or leased, within the state that meets the standards promulgated by the director pursuant to § 15-11-504 of this subchapter;

(f) "Final approval" means the action taken by the director authorizing the eligible company to receive inducements under § 15-11-507 of this subchapter;

(g) "Increased state sales tax liability" means that portion of an approved company's reported state sales (gross receipts) tax liability resulting from taxable sales of goods and services to its customers at the tourist attraction for any monthly sales tax reporting period after the approved company provides the certification required by § 15-11-507(b) of this subchapter, which exceeds the reported state sales tax liability for sales to its customers for the same month in the calendar year immediately preceding such certification.

(h) "Inducements" means the Arkansas sales tax credit as prescribed in § 15-11-507 of this subchapter;

(i) "Preliminary approval" means the action taken by the director conditioning final approval by the director upon satisfaction by the eligible company of the requirements of this subchapter;

(j)(1) "Tourism attraction" means:

- (A) Cultural or historical site;
- (B) A recreational or entertainment facility;
- (C) An area of natural phenomenon or scenic beauty;
- (D) A theme park;
- (E) An amusement or entertainment park;
- (F) An indoor or outdoor play or music show;
- (G) Botanical gardens;
- (H) Cultural or educational centers.

(2) A tourism attraction shall not include:

(A) Lodging facilities, unless the facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved costs of the tourism attraction project;

(B) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created at the site of the tourism attraction project or if the sale of goods is incidental to the tourism attraction project;

(C) Facilities that are not open to the general public;

(D) Facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the tourism attraction project;

(E) Facilities owned by the State of Arkansas or a political subdivision of the state; or

(F) Facilities established for the purpose of conducting legalized gambling. However, a facility regulated under § 23-110-101 et seq. or § 23-111-101 et seq. shall be a tourism attraction for purposes of this subchapter for any approval project as outlined in subsection (j)(1) of this section or for an approved project relating to parimutuel racing at the facility and not for establishing a casino or for offering casino-style gambling.

(k) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including, but not limited to, surveys; installation of utilities, which may include, water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

History. Acts 1997, No. 291, § 3.

TITLE 16. PRACTICE PROCEDURE, AND COURTS

SUBTITLE 2. COURTS AND COURT OFFICERS

CHAPTER 21. PROSECUTING ATTORNEYS

SUBCHAPTER 1. GENERAL PROVISIONS

§ 16-21-105. Justice of the peace to notify prosecutor of pendency of certain criminal proceedings
- Duty of **prosecutor**.

(a) In any criminal action pending before any justice of the peace court, where the defendant is charged with any offense of carrying weapons unlawfully, unlawful sale of or being interested in the sale of intoxicating liquors, or gambling, by affidavit or otherwise, and pleads not guilty and secures the services of an attorney to represent him at the trial, it shall be the duty of the justice to cause the prosecuting attorney or deputy for the county to be notified of the nature of the charge and of the time and place of the trial.

(b)(1) The prosecuting attorney shall attend and prosecute in behalf of the state.

(2) In case of a conviction, the prosecuting attorney shall be allowed the same fee as is allowed for similar cases in the circuit court. However, no prosecuting attorney or his deputy shall receive any fee unless he personally appears and prosecutes in the case, nor shall any court tax any fee where such officer does not appear and personally prosecute.

History. Acts 1895, No. 80, § 4, p. 106; C. & M. Dig., § 8310; A.S.A. 1947, § 24-123.

SUBTITLE 7. PARTICULAR PROCEEDINGS AND REMEDIES

CHAPTER 118. MISCELLANEOUS ACTIONS

§ 16-118-103. Gambling debts and losses.

(a)(1) Any person who loses any money or property at any game or gambling device, or any bet or wager whatever, may recover the money or property by action against the person winning the money or property. The suit shall be instituted within ninety (90) days after the paying over of the money or property so lost.

(2) The heirs, executors, administrators, or creditors of the person losing any money or property at any game or gambling device, or on any bet or wager whatever, may have the same remedy as is provided in subdivision (a)(1) of this section for the person losing.

(3) Nothing in this subsection shall be so construed as to enable any person to recover back any money or property lost on any turf race.

(b)(1) All judgments, conveyances, bonds, bills, notes, securities, and contracts, where the consideration or any part thereof is money or property won at any game or gambling device, or any bet or wager whatever, or for money or property lent to be bet at any gaming or gambling device, or at any sport or pastime whatever, shall be void.

(2) The assignment of any bond, bill, note, judgment, conveyance, contract, or other security shall not affect the defense of the person executing the assignment.

(c) Any matter of defense under this section may be specially pleaded or may be given in evidence under the general issue.

(d)(1) In all suits under this section, in the circuit court or before a justice of the peace, the plaintiff may call on the defendant to answer on oath any interrogatory touching the case, and if the defendant refuses to answer, the same shall be taken as confessed.

(2) The answer shall not be admitted as evidence against the person in any proceedings by indictment.

History. Rev. Stat., ch. 68, §§ 1-8; C. & M. Dig., §§ 4899-4905; Pope's Dig., §§ 6112-6118; A.S.A. 1947, §§ 34-1601 - 34-1608.

CHAPTER 123. CIVIL RIGHTS

SUBCHAPTER 1. THE ARKANSAS CIVIL RIGHTS ACT OF 1993

§ 16-123-102. Definitions.

For the purposes of this subchapter:

- (1) "Because of gender" means, but is not limited to, on account of pregnancy, childbirth, or related medical conditions;
- (2) "Compensatory damages" means damages for mental anguish, loss of dignity, and other intangible injuries, but "compensatory damages" does not include punitive damages;
- (3) "Disability" means a physical or mental impairment that substantially limits a major life function, but "disability" does not include:
 - (A) Compulsive gambling, kleptomania, or pyromania;
 - (B) Current use of illegal drugs or psychoactive substance use disorders resulting from illegal use of drugs; or
 - (C) Alcoholism;
- (4) "Employee" does not include:
 - (A) Any individual employed by his or her parents, spouse, or child;
 - (B) An individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility; or
 - (C) An individual employed outside the State of Arkansas;
- (5) "Employer" means a person who employs nine (9) or more employees in the State of Arkansas in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or any agent of such person;
- (6) "National origin" includes ancestry;
- (7) "Place of public resort, accommodation, assemblage, or amusement" means any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by

government funds, but "place of public resort, accommodation, assemblage, or amusement" does not include:

(A) Any lodging establishment which contains not more than five (5) rooms for rent and which is actually occupied by the proprietor of such establishment as a residence; or

(B) Any private club or other establishment not in fact open to the public; and

(8) "Religion" means all aspects of religious belief, observance, and practice.

History. Acts 1993, No. 962, § 9; 1995, No. 480, § 1.

TITLE 23. PUBLIC UTILITIES AND REGULATED INDUSTRIES

SUBTITLE 4. MISCELLANEOUS REGULATED INDUSTRIES

CHAPTER 111. DOG RACING

SUBCHAPTER 4. OFFICERS, DIRECTORS, STOCKHOLDERS, ETC., OF FRANCHISES

§ 23-111-405. Investigation by Arkansas Racing Commission.

(a)(1) The Arkansas Racing Commission is authorized to conduct a thorough investigation of the personal background of each officer, each director, and each principal stockholder of an applicant for, or holder of, a franchise for conducting dog racing in this state. In the event a corporation, partnership, or association qualifies as a principal stockholder of an applicant for, or holder of, a franchise for conducting dog racing in this state, then the Arkansas Racing Commission is authorized to conduct a thorough investigation of the personal background of each officer, director, and stockholder of the corporation or the personal background of each member of the partnership or association.

(2) In investigating the personal background of an officer, director, or principal stockholder of an applicant for, or holder of, a dog racing franchise, or the officers, directors, and stockholders of a corporation qualifying as a principal stockholder or the members of any partnership or association qualifying as a principal stockholder, the commission

may take into consideration present and past business associations of a person and corporate stockholdings of the person. The commission may also take into consideration any connection the person has or may have had with any gambling operations or other unlawful operations in this state or any other state, any criminal convictions of the person, and such other matters as the commission shall deem helpful in determining whether the ownership by the person, corporation, partnership, or association qualifying as a principal stockholder of a substantial amount of stock in the corporate applicant for, or holder of, a franchise to conduct dog racing in this state would or would not be detrimental to the public interest of this state.

(b) The commission may refuse to grant a franchise or temporary franchise, or it may suspend or revoke an existing franchise, if after investigation and hearing it determines that an officer, director, or principal stockholder of the applicant for, or holder of, a franchise is of undesirable personal background.

(c) The commission may refuse to grant a franchise or temporary franchise or it may suspend or revoke an existing franchise if, after investigation and hearing, it determines that an officer, director, or stockholder of a corporation qualifying as a principal stockholder under § 23-111-402 or a member of any partnership or association qualifying as a principal stockholder under the provisions of § 23-111-402 is of undesirable personal background.

(d) Before the commission shall refuse to grant any franchise or temporary franchise or shall suspend or revoke an existing franchise on the basis of the personal background of any officer, director, or principal stockholder of the applicant for, or holder of, a franchise, the commission shall set a date and time for a hearing on the matter. It shall notify the applicant or franchise holder of the specific findings of the commission upon the basis of which it proposed to refuse, suspend, or revoke the franchise and of the date and time of the hearing. In addition thereto the commission shall, at least ten (10) days prior to the hearing, publish notice of the hearing in a newspaper of general circulation in the county in which dog racing is held or proposed to be held under the franchise.

(1) Notice shall be given to the applicant or franchise holder by registered mail addressed to the applicant or

franchise holder at its principal office as shown in the application or in other records of the commission at least ten (10) days prior to the date of the hearing.

(2) At the hearing the applicant for, or holder of, a franchise and other interested persons shall be permitted to appear and present evidence relevant to the issue or finding upon which the commission proposes to deny, suspend, or revoke a franchise.

(3) All proceedings before the commission pursuant to this section and the right of appeal therefrom shall be conducted in accordance with, and taken in the manner provided in, and in every way subject to, the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 3, 5; A.S.A. 1947, § 84-2823.3, 84-2823.5.

TITLE 26. TAXATION

SUBTITLE 5. STATE TAXES

CHAPTER 57. STATE PRIVILEGE TAXES

SUBCHAPTER 4. COIN-OPERATED AMUSEMENTS

§ 23-111-405. Investigation by Arkansas Racing Commission.

(a)(1) The Arkansas Racing Commission is authorized to conduct a thorough investigation of the personal background of each officer, each director, and each principal stockholder of an applicant for, or holder of, a franchise for conducting dog racing in this state. In the event a corporation, partnership, or association qualifies as a principal stockholder of an applicant for, or holder of, a franchise for conducting dog racing in this state, then the Arkansas Racing Commission is authorized to conduct a thorough investigation of the personal background of each officer, director, and stockholder of the corporation or the personal background of each member of the partnership or association.

(2) In investigating the personal background of an officer, director, or principal stockholder of an applicant for, or

holder of, a dog racing franchise, or the officers, directors, and stockholders of a corporation qualifying as a principal stockholder or the members of any partnership or association qualifying as a principal stockholder, the commission may take into consideration present and past business associations of a person and corporate stockholdings of the person. The commission may also take into consideration any connection the person has or may have had with any gambling operations or other unlawful operations in this state or any other state, any criminal convictions of the person, and such other matters as the commission shall deem helpful in determining whether the ownership by the person, corporation, partnership, or association qualifying as a principal stockholder of a substantial amount of stock in the corporate applicant for, or holder of, a franchise to conduct dog racing in this state would or would not be detrimental to the public interest of this state.

(b) The commission may refuse to grant a franchise or temporary franchise, or it may suspend or revoke an existing franchise, if after investigation and hearing it determines that an officer, director, or principal stockholder of the applicant for, or holder of, a franchise is of undesirable personal background.

(c) The commission may refuse to grant a franchise or temporary franchise or it may suspend or revoke an existing franchise if, after investigation and hearing, it determines that an officer, director, or stockholder of a corporation qualifying as a principal stockholder under § 23-111-402 or a member of any partnership or association qualifying as a principal stockholder under the provisions of § 23-111-402 is of undesirable personal background.

(d) Before the commission shall refuse to grant any franchise or temporary franchise or shall suspend or revoke an existing franchise on the basis of the personal background of any officer, director, or principal stockholder of the applicant for, or holder of, a franchise, the commission shall set a date and time for a hearing on the matter. It shall notify the applicant or franchise holder of the specific findings of the commission upon the basis of which it proposed to refuse, suspend, or revoke the franchise and of the date and time of the hearing. In addition thereto the commission shall, at least ten (10) days prior to the hearing, publish notice of the hearing in a newspaper of general circulation in the county in which dog racing is held or proposed to be held under the franchise.

(1) Notice shall be given to the applicant or franchise holder by registered mail addressed to the applicant or franchise holder at its principal office as shown in the application or in other records of the commission at least ten (10) days prior to the date of the hearing.

(2) At the hearing the applicant for, or holder of, a franchise and other interested persons shall be permitted to appear and present evidence relevant to the issue or finding upon which the commission proposes to deny, suspend, or revoke a franchise.

(3) All proceedings before the commission pursuant to this section and the right of appeal therefrom shall be conducted in accordance with, and taken in the manner provided in, and in every way subject to, the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 3, 5; A.S.A. 1947, § 84-2823.3, 84-2823.5.

SUBCHAPTER 12. VENDING DEVICES

§ 26-57-1210. Prohibited devices not legalized - Fees not refunded. [Effective January 1, 1998.]

Nothing in this subchapter shall be construed to legalize any coin-operated video gambling device, slot machine, or other coin-operated gambling device that may be prohibited by any of the other statutes of this state. The Director of the Department of Finance and Administration may assume that any vending device described in any application made under this subchapter, and for which an annual or special vending device decal fee is paid, is lawful, and no claim for refund of any such annual or special vending device decal fee shall be allowed based upon the inability of the operator of such coin-operated device to operate such vending device because of any other applicable law of this state.

History. Acts 1997, No. 928, § 10.