

5249. Sec. 5. **Supplying Convicts With Liquor; Penalties:**—If any sheriff, jailer, or other person, shall supply to any convict in prison, or shall aid such convict to procure any spirituous, expressed, or fermented liquor, or if any sheriff or jailer, shall knowingly permit such convict to procure, or shall not use due diligence and care to prevent him procuring such liquor, unless, in either case, the same shall be prescribed in writing by the physi-

cian of the jail, such sheriff, jailer or other person, shall be deemed guilty of a misdemeanor, and shall be fined not less than fifty nor more than one hundred dollars; and every jailer, so offending, shall, on conviction, be displaced; and every sheriff, so offending a second or other subsequent time, shall be fined not less than one nor more than two hundred dollars.

Code 1915, 4780.

CHAPTER 153

OFFENSES AGAINST RELIGION, MORALITY AND DECENCY

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OFFENSES AGAINST RELIGION, MORALITY AND DECENCY—Article 1

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OFFENSES AGAINST RELIGION, MORALITY AND DECENCY—Article 2

Nuisances With Regard To Social Vice

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5250. Sec. 1. **Blasphemy; Penalty:**—Whoever shall be guilty of the crime of blasphemy, shall be deemed guilty of a misdemeanor, and shall be fined not exceeding fifty dollars, shall be imprisoned in solitary confinement for any term not exceeding two months, and may, in the discretion of the Court, be held to surety of the peace and good behavior for one year after his discharge from prison.

Code 1915, 4781.

5251. Sec. 2. **Disturbing Religious Worship; Penalty:**—Whoever shall wilfully interrupt, disturb, or molest any church, meeting, congregation, or society, assembled for the purpose of religious worship, shall be deemed guilty of a misdemeanor, and shall be fined not less than eight nor more than sixty dollars.

Code 1915, 4782.

5252. Sec. 3. **Keeping Booth For Sale of Spirituous Liquors, Provisions &c. Within Two Miles of Camp-meeting; Penalty; Exceptions:**—Whoever shall make, have, or keep any booth, stall, tent, carriage, or place, for the purpose of selling, or disposing of, or shall sell, offer, or dispose of any spirituous liquor, wine, porter, beer, cider, bread, food, or other provisions, or articles, within two miles of any camp-meeting held for religious worship, during the

continuance of such meeting, or on the day before its commencement, excepting taverns and stores regularly established, shall be deemed guilty of a misdemeanor, and shall be fined not less than one nor more than twenty dollars; provided, that it shall be lawful for any three of the managers of such meeting, by license in writing, to authorize such stand or tent, for the sale of food, provisions and provender.

Code 1915, 4783.

5253. Sec. 4. Sabbath Breaking; Worldly Employment or Business; Driving or Traveling by Carrier; Peddler, Butcher &c; Retailing Goods; Fishing; Fowling; Horse Racing; Cock-Fighting; Gaming; Playing; Dancing; Penalties; Jurisdiction of Justice:—Whoever shall perform any worldly employment, labor, or business, on the Sabbath Day (works of necessity and charity excepted) shall be fined four dollars, and on failure to pay such fine and costs shall be imprisoned not exceeding twenty-four hours.

If any carrier, peddler, wagoner, or driver of any public stage, or carriage, or any carter, butcher, or drover, with his horse, pack, wagon, stage, carriage, cart, or drove, shall travel, or drive, upon the Sabbath Day, or if any retailer of goods shall expose the same to sale on the Sabbath, he shall be fined eight dollars, and on failure to pay such fine and costs shall be imprisoned not exceeding twenty-four hours. Any justice of the peace may stop any such person so traveling on the Sabbath, and detain him until the next day.

Whoever shall be guilty of fishing, fowling, horse-racing, cock-fighting, or hunting game on the Sabbath day, shall be fined four dollars, and on failure to pay such fine and costs shall be imprisoned as aforesaid.

If any number of persons shall assemble to game, play, or dance, on the Sabbath day, and shall engage, or assist, in such game, play, or dance, every such person shall be fined four dollars, and on failure to pay such fine and costs shall be imprisoned as aforesaid.

Provided that, within the corporate limits of the City of Wilmington, The Mayor and Council of Wilmington, acting by and through the agency of its Board of Park Commissioners, may permit swimming, tennis and golf, under such conditions, fees, charges, restrictions, rules and regulations as said Board of Park Commissioners shall adopt for such purpose.

And Provided Further, that baseball and football may be played on Sunday in the State of Delaware, after two o'clock in the afternoon, unless and except the same be contrary and in violation of any ordinance enacted by the City Council, Town Commissioners, or the Legislative body of any incorporated city or town in the State of Delaware, prohibiting or otherwise regulating the playing of such sports.

Any justice of the peace of the county shall have jurisdiction and cognizance of the offenses mentioned in this section.

Code 1915, 4784; 37 Del. Laws, Ch. 269; 40 Del. Laws, Ch. 247.

5254. Sec. 5. Bigamy; Penalty; Inhabitant Going Out of State and Contracting Marriage With Intent to Return, Contrary to This Section, Liable to Prosecution:—Whoever, having contracted marriage, shall, in the lifetime of his or her husband or wife, marry with another person, or if any unmarried person shall marry with a person having at the time a husband, or wife living, and such fact be known to such unmarried person, he or she shall be deemed guilty of bigamy, and shall be fined not less than four hundred nor more than two thousand dollars, and shall be imprisoned for not less than three months nor more than six years.

If any inhabitant of this State shall go out of the State and contract a marriage contrary to this section, with intention to return and reside in this State, and shall return accordingly, such person, notwithstanding such marriage shall be solemnized, or contracted, out of this State, shall be liable to be indicted, tried, convicted and punished in the same manner as if the said marriage had been solemnized, or contracted within this State.

Code 1915, 4785.

5255. Sec. 6. Cohabiting After Conviction of Bigamy; Penalty; Presumption of Death:—Whoever, after a conviction of either of them of bigamy on the ground of a marriage with the other, shall cohabit, or continue to live together, each of them shall be deemed guilty of a misdemeanor, and shall be fined four hundred dollars, and shall be imprisoned for a term not less than six months nor more than one year.

But no person shall be convicted of bigamy, if the husband, or wife, at the time of the second marriage, shall have been absent for five years, and during that time the accused shall have received no intelligence of his or her being alive, or if there shall have been other good ground to believe the former husband or wife dead, or if the former marriage have been legally dissolved.

Code 1915, 4786.

5256. Sec. 7. Sodomy; Penalty:—Whoever shall commit the crime against nature shall be deemed guilty of felony, and shall be fined not exceeding one thousand dollars, and shall be imprisoned not exceeding three years.

Code 1915, 4787.

5257. Sec. 8. Incest; Fornication Within Certain Degrees of Consanguinity or Affinity, Forbidden; Degrees Stated, Penalty:—Whoever shall commit incestuous fornication or adultery, within the degrees of consanguinity or affinity, according to the following table, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars, and shall be imprisoned for a term not exceeding seven years.

The table of degrees of consanguinity and affinity is as follows:

Degrees of Consanguinity

- A man and his mother.
- A man and his father's sister.
- A man and his mother's sister.

A man and his sister.
 A man and his daughter.
 A man and his granddaughter.
 A woman and her father.
 A woman and her father's brother.
 A woman and her mother's brother.
 A woman and her brother.
 A woman and her son.
 A woman and her grandson.

Degrees of Affinity

A man and his father's wife.
 A man and his son's wife.
 A man and his wife's daughter.
 A man and the daughter of his wife's son
 or daughter.
 A woman and her mother's husband.
 A woman and her daughter's husband.
 A woman and her husband's son.
 A woman and the son of her husband's son
 or daughter.

Code 1915, 4788; 28 Del. Laws, Ch. 243.

5258. Sec. 9. Definition Of Adultery; Penalty; Uncorroborated Testimony:—Adultery is the sexual intercourse of two persons either of whom is married to a third person.

A person who commits adultery is guilty of a misdemeanor.

A person convicted of adultery is punishable by imprisonment for a period of not more than one year, or by a fine of not more than Five Hundred Dollars or both.

No person shall be convicted of the crime of adultery on the uncorroborated testimony of the person with whom the offense is charged to have been committed.

29 Del. Laws, Ch. 264.

5259. Sec. 10. Procurement in Cities or Towns; Penalty; Imprisonment, When; Disposition of Fines:—It shall be unlawful for any person to act in any manner as a procurer or procuress in soliciting or enticing any person, male or female, for immoral purposes or sexual intercourse, on any of the streets, lanes or alleys of any city or incorporated town in this State, or within one mile of the limits thereof.

Whoever shall be found guilty of violating any of the provisions of this section shall be deemed guilty of a common nuisance, and upon conviction thereof before the alderman or committing magistrate of the city or town wherein or near which said offense is committed, shall be fined not less than ten or more than fifty dollars, together with the costs of prosecution, for each and every offense, and in default of payment of said fine shall be committed by said alderman or committing magistrate aforesaid to the jail or workhouse of the County, where the offense was committed, until such fine and costs are paid. One-half of the fine shall be paid to the informer and the other half shall be paid into the treasury of the city or town, in or near which the said offense is committed.

Code 1915, 4789.

5260. Sec. 11. Pimping; Penalty; Evidence of Prostitute, Even Though Married to Pimp, Admissible:—Any male person who, knowing a female person to be a prostitute, shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of the prostitution of such prostitute, or from monies loaned or advanced to or charged against such prostitution by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who shall tout or receive compensation for touting for such prostitute, shall be guilty of a felony, to wit, pimping, and upon conviction for an offense under this section shall be punished by imprisonment for a period of not less than one year nor more than three years.

Any such female person, referred to in this section, shall be a competent witness in any prosecution under this section to testify for or against the accused, as to any transaction or as to any conversation with the accused, or by him with another person or persons in her presence, notwithstanding her having married the accused before or after the violation of any of the provisions of this section, whether called as a witness during the existence of the marriage or after its dissolution.

Code 1915, 4790.

5261. Sec. 12. Pandering; Penalty; Evidence of Female, Even Though Married to Panderer, Admissible:—Whoever shall procure a female inmate for a house of prostitution, or who, by promises, threats, violence, or by any device or scheme, shall cause, induce, persuade or encourage a female person to become an inmate of a house of prostitution, or shall procure for a female person a place as inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this State, or whoever shall, by promises, threats, violence or by any device or scheme, cause, induce, persuade or encourage an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as such inmate, or whoever shall, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procure any female person to become an inmate of a house of ill-fame, or to enter any place in which prostitution is encouraged or allowed within this State, or to come into this State or leave this State for the purpose of prostitution, or shall receive or give, or agree to receive or give, any money or thing of value for procuring, or attempting to procure, any female person to become an inmate of a house of ill-fame within this State, or to come into this State or leave this State for the purpose of prostitution, shall be guilty of a felony, to wit, pandering, and upon conviction for an offense under this section shall be punished by imprisonment for a period of not less than one year nor more than ten years.

Any such female person, referred to in this section, shall be a competent witness in any prosecution under this section to testify for or against the accused, as to any transaction, or as to any conversation with the accused, or by him with another person or persons in her presence, notwithstanding her having married

the accused before or after the violation of any of the provisions of this section, whether called as a witness during the existence of the marriage or after its dissolution.

Code 1915, 4791.

5262. Sec. 13. Keeping or Being Concerned in Keeping House of Ill-fame; a Nuisance; Penalty; When Fine a Lien on the Premises; Lien How Recorded and Collected; Owner of Premises How Notified; Jurisdiction, in What Courts:—Whoever keeps or has any interest in keeping a house of ill-fame or assignation of any description, or a house or place for persons to visit for unlawful sexual intercourse or for any sexual, obscene or indecent purpose, or a disorderly house or any place or public resort by which the peace, comfort or decency of a neighborhood is disturbed, shall be guilty of a nuisance, and upon conviction thereof shall forfeit and pay a fine of not less than fifty dollars nor more than one hundred dollars, and in default of payment of such fine, together with costs, shall be imprisoned in the County Jail for the term of two months, and upon a second or any subsequent conviction thereof shall forfeit and pay a fine of not less than one hundred dollars, nor more than two hundred dollars, or to be imprisoned not more than six months, or both, at the discretion of the Court. In default of payment of the fine imposed upon such second or any subsequent conviction, together with costs, the same shall be a lien upon the premises where such nuisance was committed; provided, that the owner or agent of such premises shall have been notified that such nuisance has been committed; and such lien shall be properly recorded and indexed by the clerk of the court where such conviction shall be had, and may be collected by proper execution process. The Municipal Court of the City of Wilmington shall have jurisdiction in all cases of violation of this section occurring within the said city. The sheriff, or in the City of Wilmington the Chief of Police, shall forthwith cause notice of any conviction under this section to be served upon the owner or owners of the premises upon or in which such nuisance shall have been committed; such service may be made upon the owner or owners personally, or by leaving a copy thereof at his or their usual place of abode, or if the place of abode of any owner be not known or not in the State, then such service may be made upon his agent, if he have any.

Code 1915, 4792.

5263. Sec. 14. Acts In Furtherance Of Prostitution Unlawful:—It shall be unlawful:

(a) To keep, set up, maintain or operate any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation;

(b) To occupy any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation or for any person to permit any place, structure, building or conveyance owned by him, or under his control, to be used for the purpose of prostitution, lewdness or assignation, with knowledge or reasonable cause to know that the same is, or is to be, used for such purpose;

(c) To receive or to offer or agree to receive any person into any place, structure, building or conveyance for the purpose of prostitution, lewdness or assignation, or to permit any person to remain there for such purpose;

(d) To direct, take or transport, or to offer or agree to take or transport, any person to any place, structure or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;

(e) To procure or to solicit, or to offer to procure or solicit, for the purpose of prostitution, lewdness or assignation;

(f) To reside in, enter or remain in any place, structure or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness or assignation;

(g) To engage in prostitution, lewdness or assignation, or to aid or abet prostitution, lewdness or assignation, by any means whatsoever.

30 Del. Laws, Ch. 233, 1.

5264. Sec. 15. Prostitution, Lewdness, Assignation Defined:—The term "prostitution" shall be construed to include the offering or receiving of the body for sexual intercourse for hire, and, shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. That the term "lewdness" shall be construed to include any indecent or obscene act. The term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

30 Del. Laws, Ch. 233, 2.

5265. Sec. 16. Trial; Evidence:—In the trial of any person charged with a violation of any of the provisions of Section 14 of this Chapter, testimony of a prior conviction, or testimony concerning the reputation of any place, structure or building and of the person or persons who reside in or frequent the same and of the defendant shall be admissible in evidence in support of the charge.

30 Del. Laws, Ch. 233, 3.

5266. Sec. 17. Penalty on Conviction:—Any person who shall be found guilty of violating any of the provisions of Section 14 of this Chapter shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment, or both, in the discretion of the Court.

31 Del. Laws, Ch. 65.

5267. Sec. 18. Court May Suspend Sentence; Parole; Parole of Persons Infected With Disease; Female Probated To Female Probation Officer:—(a) In cases where sentence of imprisonment is imposed for violating any of the provisions of Section 14 of this Chapter, the Court may in its discretion suspend sentence or any part thereof, and may parole or place the defendant on probation in the care of a probation officer designated by law or theretofore appointed by the court.

(b) Probation or parole shall be granted or ordered in the case of a person infected with

venereal disease only on such terms and conditions as shall insure medical treatment therefor and prevent the spread thereof, and the Court may order any convicted defendant to be examined for venereal disease.

(c) No girl or woman who shall be convicted under Section 14 shall be placed on probation or on parole in the care or charge of any person except a woman probation officer.

31 Del. Laws, Ch. 65.

5268. Sec. 19. Courts, Jurisdiction Of:—Prosecution for violation of any of the provisions of Section 14 shall be tried in the Courts of this State wherein misdemeanors are triable and the Municipal Court of the City of Wilmington shall also have concurrent jurisdiction over all violations of said section occurring within the corporate limits of the City of Wilmington.

31 Del. Laws, Ch. 65.

5269. Sec. 20. Declaration of Legislative Intent:—The declaration by the Courts of any of the provisions of Section 14 to 19 inclusive of this Chapter as being in violation of the Constitution of this State shall not invalidate the remaining provisions.

30 Del. Laws, Ch. 233, 7.

5270. Sec. 21. Demise &c. of House for Immoral Purposes, Void; Terminated By Such Use; Right of Immediate Possession; Remedies; When Owner Criminally Responsible; Penalty:—Any lease, contract, agreement or demise made by any person or persons for the letting or using of any place or building, or any portion of a building, for any of the purposes specified in Section 13, shall be null and void; and the use of any place or building, or any portion of a building, for any of said purposes, shall terminate and render thenceforth null and void any lease, contract, agreement or demise for the letting or use thereof; and in each case, the person or persons who would be entitled to the possession of the premises if such lease, contract, agreement or demise had not been made, shall have the right of immediate possession thereof, as if such lease, contract, agreement or demise had not been made; and the provisions, remedies, processes and penalties provided for in Chapter 123 in cases of forcible entry and detainer, shall be applicable for the purpose of restoring the person or persons entitled as aforesaid to the possession of such premises. After sufficient time has elapsed, from the date of notice being served as aforesaid, to enable him to secure the possession of the premises under the provisions of this section, any owner, who shall still permit his premises to be used for any of the purposes mentioned in Section 13 of this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay a fine of not less than fifty nor more than two hundred dollars.

Code 1915, 4793.

5271. Sec. 22. Moving Pictures Ridiculing Religion, Exhibition of Unlawful; Misdemeanor; Penalty:—It shall be unlawful for any person or any officer or employee of any corporation engaged in the business of exhibiting

moving pictures, to exhibit any picture that holds up to ridicule religion or religious matters, or to exhibit a minister of the Gospel as a ridiculous person.

Any person or any officer or employee of any corporation violating the provisions of this Section shall be guilty of a misdemeanor and shall upon conviction, pay a fine not exceeding three hundred dollars.

33 Del. Laws, Ch. 244.

OFFENSES AGAINST RELIGION, MORALITY AND DECENCY—Article 2

Nuisances With Regard To Social Vice

5272. Sec. 23. Terms Defined:—For the purpose of this Article the terms place, person, nuisance are defined as follows: place shall include any building, erection, or place, or any separate part or portion thereof, or the ground itself; person shall include any individual, corporation, association, partnership, trustee, lessee, agent, or assignee; nuisance shall mean any place as above defined in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued, or exists, and the personal property and contents used in conducting or maintaining any such place for any such purpose.

30 Del. Laws, Ch. 234, 1.

5273. Sec. 24. Who Are Guilty:—Any person who shall use, occupy, establish, or conduct a nuisance as defined in Section 23, or aid or abet therein, and the owner, agent, or lessee of any interest in any such nuisance, together with the persons employed in or in control of any such nuisance by any such owner, agent, or lessee, shall be guilty of maintaining a nuisance and shall be enjoined as hereinafter provided.

30 Del. Laws, Ch. 234, 2.

5274. Sec. 25. Action To Enjoin And Abate And Who May Maintain Same:—Whenever a nuisance exists the Attorney General of the State, or any person who is a citizen of the County, or has an office therein, may bring an action in equity in the name of the State of Delaware, upon the relation of such Attorney General, or person, to abate such nuisance and to perpetually enjoin the person or persons maintaining the same from further maintenance thereof.

30 Del. Laws, Ch. 234.

5275. Sec. 26. Jurisdiction And Procedure—Temporary Injunction:—Such action shall be brought in the Court of Chancery of the County in which the property is located. At or before the commencement of the action a verified complaint alleging the facts constituting the nuisance shall be filed in the office of the Register in Chancery, together with a notice of the pendency of the action, containing the names of the parties, the object of the action, and a brief description of the property affected thereby. Such notice shall be immediately recorded by the Register in Chancery. After the filing of the complaint, application for a temporary injunction may be made to the Chancellor, who shall grant a hearing thereon