

BY AUTHORITY OF THE LEGISLATIVE
ASSEMBLY.

THE
REVISED STATUTES
OF
ARIZONA TERRITORY

CONTAINING ALSO

THE LAWS PASSED BY THE TWENTY-FIRST LEGISLATIVE
ASSEMBLY, THE CONSTITUTION OF THE UNITED
STATES, THE ORGANIC LAW OF ARIZONA
AND THE AMENDMENTS OF CON-
GRESS RELATING THERETO.

1901

COLUMBIA, MISSOURI
PRESS OF E. W. STEPHENS
1901

PENAL CODE.

PENAL CODE.

PRELIMINARY PROVISIONS.

Section 1. This act shall be known as the penal code of Arizona, and is divided into parts, as follows:

(1.) Crimes and punishments.

(2.) Criminal procedure.

2. This act, whenever cited, enumerated, referred to or amended, may be designated simply as "The Penal Code," adding, whenever necessary, the number of the section.

3. This code shall take effect at 12 o'clock, noon, on the first day of September, 1901. No act or omission commenced after 12 o'clock, noon, of the day on which this code takes effect as a law, is criminal or punishable, except as prescribed or authorized by this code, or by some of the statutes which it specifies as continuing in force and as not affected by its provisions, or by some ordinance, municipal, county or township regulation, passed or adopted under such statutes, and in force when this code takes effect. Any act or omission occurring prior to that time may be inquired of, prosecuted and punished in the same manner as if this code had not been passed.

4. The provisions of this code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

5. The rule of the common law that penal statutes are to be strictly construed, has no application to this code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its object and to promote justice.

6. No part of this code is retroactive, unless expressly so declared.

7. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation as

Division of penal code.

Designation.

Rights preserved and authority expressed.

Statutes continued.

Not retroactive.

Words to be construed as provided herein.

PART ONE.

OF CRIMES AND PUNISHMENTS.

TITLE I.

OF PERSONS LIABLE TO PUNISHMENT FOR CRIME.

Who can not
commit crime.

24. All persons are capable of committing crimes except those belonging to the following classes:

(1.) Children under the age of ten, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

(2.) Idiots.

(3.) Lunatics and insane persons.

(4.) Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent.

(5.) Persons who committed the act charged without being conscious thereof.

(6.) Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention or culpable negligence.

(7.) Married women (except for felonies) acting under the threats, command or coercion of their husbands.

(8.) Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to, and did believe their lives would be endangered if they refused.

Who are liable
to punishment.

25. The following persons are liable to punishment under the laws of this territory:

(1.) All persons who commit, in whole or in part, any crime within this territory.

(2.) All who commit larceny or robbery out of this territory and bring to, or are found with the property stolen, in this territory.

(3.) All who, being out of this territory, cause or aid, advise or encourage, another person to commit a crime within this territory, and are afterwards found therein.

Persons discharged on writ not to be recommitted.

knowingly and unlawfully recommits, imprisons, or restrains of his liberty, for the same cause, any person who has been discharged upon a writ of *habeas corpus*, is guilty of a misdemeanor.

Ending service of writ.

327. Every person having in his custody, or under his restraint or power, any person for whose relief a writ of *habeas corpus* has been issued, who, with intent to elude the service of such writ, or to avoid the effect thereof, transfers such person to the custody of another, or places him under the power or control of another, or conceals or changes the place of his confinement or restraint, or removes him without the jurisdiction of the court or judge issuing the writ, is guilty of a misdemeanor.

Common carriers must carry passengers.

328. Any person and any agent or officer of a corporation carrying on a business as a common carrier of passengers, who refuses, without just cause, to receive and carry any passenger, is guilty of a misdemeanor.

Cutting timber from public domain.

329. Any person who shall cut or remove or take any timber from any of the public lands within any of the counties of this territory for the purpose of shipping the same to any place without the territory, or to any foreign place or market whatever, shall be deemed guilty of a felony, and, upon conviction, shall be imprisoned in the territorial prison for not to exceed three years, or fined not to exceed five thousand dollars, or both such fine and imprisonment.

TITLE X.

OF OFFENSES AGAINST THE PUBLIC HEALTH AND SAFETY.

Collisions must be avoided.

330. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad car, locomotive, or train, who wilfully or negligently suffers or causes the same to collide with another car, locomotive, or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the territorial prison for not less than one nor more than ten years.

Public nuisance defined.

331. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the

customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park square, street, or highway, is a public nuisance.

332. An act which affects an entire community or neighborhood, or any considerable number of persons, as specified in the last section, is not less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

Nuisance further explained.

333. Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who wilfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.

Punishment of person committing.

334. Every person who puts the carcass of any dead animal, or the offal from any slaughter pen, corral, or butcher shop, into any river, creek, pond, reservoir, stream, street, alley, public highway or road in common use or who attempts to destroy the same by fire within one-fourth of a mile of any city, town, or village, and every person who puts the carcass of any dead animal, or any offal of any kind, in or upon the borders of any stream, pond, lake, or reservoir from which water is drawn for the supply of the inhabitants of any city, county, or any town in this territory, so that the drainage from such carcass or offal may be taken up by, or in such stream, pond, lake, or reservoir, or who allows the carcass of any dead animal, or any offal of any kind, to remain in or upon the borders of any such stream, pond, lake, or reservoir, within the boundaries of any lands owned or occupied by him, or who keeps any horses, mules, cattle, swine, sheep, or live stock of any kind, penned, corralled or housed on, over, or on the borders of any such stream, pond, lake, or reservoir, so that the waters thereof shall become polluted by reason thereof, is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months.

Carcasses not to be put in certain places.

335. The owner or person in possession of any lot of land in any city, village, or town, incorporated or unincorporated, on which there is any water closet, privy, or cess-pool, who shall fail to keep the same in a healthful condition, either by the use of disinfectants or otherwise, or who shall permit the same to become unhealthful or offensive to the public, or to any person, is guilty of a misdemeanor.

Places that must be kept disinfected.

336. Every person who in putting up in any bag, bale, box, barrel, or other package, any hops, cotton, wool, grain, hay, or other goods usually sold in bags, bales, boxes, barrels or packages by weight, puts in or conceals therein anything whatever, for the purpose of increasing the weight of such bag, bale, box, barrel or package, with intent thereby to sell the goods therein, or to enable another to sell the same,

Fraud in packing goods.

for an increased weight, is punishable by fine of not less than twenty-five dollars for each offense.

Food adulteration prohibited.

337. Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with a fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted, and every person who fraudulently sells, or keeps or offers for sale the same as unadulterated or undiluted, is guilty of a misdemeanor.

Spoiled food.

338. Every person who knowingly sells, or keeps or offers for sale, or otherwise disposes of any article of food, drink, drug or medicine, knowing that the same has become tainted, decayed, spoiled, or otherwise unwholesome or unfit to be eaten or drank, with intent to permit the same to be eaten or drank, is guilty of a misdemeanor.

Setting fire to combustibles.

339. Every person who wilfully or negligently sets on fire, or causes or procures to be set on fire, any woods, grasses, or grain, on any lands, is guilty of a misdemeanor.

340. Any person or persons who shall wilfully and deliberately set fire to any wooded country or forest belonging to this territory, or the United States, within this territory, or to any place from which fire shall be communicated to any such wooded country or forest, or who shall accidentally set fire to any such wooded country or forest, or to any place from which fire shall be communicated to any such wooded country or forest, and shall not extinguish the same, or use every effort to that end, or who shall build any fire, for lawful purpose or otherwise, in or near any such wooded country or forest, and, through carelessness or neglect, shall permit said fire to extend to and burn through such wooded country or forest, shall be deemed guilty of a misdemeanor, and, on conviction before a court of competent jurisdiction, shall be punishable by a fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment: *Provided*, That nothing herein contained shall apply to any person who in good faith shall set a back fire to prevent the extension of a fire already burning.

Persons interfering at fires.

341. Every person who, at the burning of a building, disobeys the lawful orders of any public officer or fireman, or offers any resistance to, or interferes with the lawful efforts of any fireman or company of firemen to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

342. Any person who shall sell or give to any minor under the

age of fourteen years, or to any person for the use of such minor, any firearms, or toy pistols from which dangerous and explosive substances may be discharged, shall be deemed guilty of a misdemeanor.

Selling explosives to children.

343. If any pharmacist, druggist, apothecary or other person shall sell, or barter, or give any such poisons as:

Selling poisons.

1. Arsenic and its preparations, prussic acid, cyanide of potassium and all metallic cyanides, strychnine and all poisonous vegetable alkaloids and their salts, aconite and its preparations, and tartar emetic.

2. Belladonna, conium, cantharides, corrosive sublimate, henbane, nux vomica, savin oil, digitalis and their pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid, oxalic acid, opium and all preparations of opium, except paregoric and other preparations of opium containing less than two grains to the ounce, without distinctly labeling the bottle, box, vessel or package, with the name of the poisonous drug or chemical contained therein, the word "poison," and a vignette representing a skull and cross-bones, and the name and place of business of the seller, he shall be guilty of a misdemeanor.

344. If any pharmacist, druggist, apothecary or any other person shall sell or deliver any of the poisons mentioned in subdivision (1) one of the preceding section without, before delivering it to the buyer, making, or causing to be made, an entry in a book kept for that purpose only, stating the date of sale, name and address of the purchaser, the name and quantity of the poison sold, the purpose for which it is (stated by the purchaser) to be required, and the name of the dispenser, he shall be guilty of a misdemeanor.

Record of poisons sold to be kept.

345. If any pharmacist, druggist, apothecary or any other person shall fail to keep such a book as mentioned in the preceding section, or shall fail to keep such a book always open for inspection by the proper authorities, and preserve such book for at least one year, he is guilty of a misdemeanor.

Penalty for not keeping record.

346. The provisions of the preceding three sections shall not apply to the dispensing of poisons in not unusual doses or quantities upon prescriptions of legitimate practitioners of medicine, and nothing contained in the foregoing sections shall apply to or interfere with the business or sale of medicines in the original packages of the manufacturers.

When preceding does not apply.

347. Any person who, in making application to purchase and receive, or purchase, or receive any of the poisonous substances or liquids mentioned in section 343 of this code, shall give a false or fictitious name or address to the apothecary, druggist or other person, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be pun-

Purchaser must give true name.

ished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months.

Oleomargarine.

348. Every person or corporation which shall manufacture for sale, or who shall offer or expose for sale within the Territory of Arizona any article or substance in semblance of butter, not the legitimate product of the dairy, and not made exclusively of milk or cream, or into which the oil or fat of animals not produced from milk, enters as a component part, or into which the oil or fat of animals not produced from milk has been introduced to take the place of cream, shall distinctly stamp, brand or mark, in some conspicuous place, on every package of such article or substance the word "oleomargarine," in plain letters, not less than one-fourth of an inch square each, in case of retail sale of such article or substance in parcels or otherwise. The seller shall in all cases deliver therewith to the purchaser, a printed label bearing the plainly printed word "oleomargarine," the word to be printed with type, each letter of which shall not be less than one-fourth of an inch square.

Sale of oleomargarine.

349. Every person dealing, whether by wholesale or retail, in the article or substance described in section 348, shall continually keep, conspicuously posted up, in not less than three exposed positions in or about their respective places of business, a printed notice in the following words, viz.: "Oleomargarine sold here." The said notice is to be plainly printed with letters not less than two and a half inches square each. And each and every hotel keeper and restaurant keeper, boarding house keeper, or proprietors of other places where meals are furnished for pay, who may use in their respective places of business any of the articles or substances described in section 348, shall, upon the furnishing of the same to his guests or customers, if inquiry is made, cause each and every guest or customer to be distinctly informed that the said article is not butter, the genuine production of the dairy, but is oleomargarine.

Penalties.

350. Any person violating any of the provisions of the two preceding sections is guilty of a misdemeanor.

(Schollenberg vs. Pennsylvania, 171 U. S., 1.)

Labeling drugs.

351. Every apothecary, druggist or person carrying on business as a dealer in drugs or medicines, or person employed as clerk or salesman by such person, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines, wilfully, negligently, or ignorantly omits to label the same, or puts an untrue label, stamp, or other designation of contents upon any box, bottle, or other package containing any drugs or medicines, or

substitutes a different article for any article prescribed or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor, or if death ensues, is guilty of felony.

352. Every person who shall keep or store, or cause to be kept or stored, or aid or assist any person in keeping or storing, hercules, dynamite, or giant powder, in greater quantities than twenty-five pounds at one time, or blasting or gunpowder in greater quantities than fifty pounds at any one time, in or upon any building or premises within a distance of one-half a mile of the exterior limits of any city, village or town in this territory, except in vessels, railroad cars, or vehicles receiving and keeping the same in the course of and for the purpose of transportation alone, is punishable by a fine of not less than two hundred dollars, nor more than one thousand dollars, or imprisonment in the county jail not less than one month nor more than six months, or by both such fine and imprisonment.

Storing dynamite, etc.

353. Any person who shall keep or store, or cause to be kept or stored, or aid in keeping or storing, any percussion caps, gunpowder, or other blasting powder, in or upon any building or premises where hercules, dynamite or giant powder is kept or stored, or at a less distance than two hundred feet of the building or premises where said hercules, dynamite or giant powder is kept or stored, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

Other explosives not to be kept near giant powder, etc.

354. Any person who shall, after January 1, 1902, knowingly sell or have in his possession any dynamite, nitro-glycerine or other highly explosive material, or any fuse, or who shall cause the same to be transported from point to point in this territory, without having plainly marked, in large letters, in a conspicuous place, on the box or package containing such explosive material, the name and explosive character thereof, and without having plainly marked upon the wrapper of each stick of dynamite or other explosive material, or package of fuse, the date of the manufacture thereof, is guilty of a misdemeanor.

Explosives must be dated.

355. Every person in charge of a locomotive engine, who, before crossing any traveled public way, omits to cause a bell to ring or steam-whistle to sound at the distance of at least eighty rods from the crossing, and up to it, is guilty of a misdemeanor.

Locomotives must ring bell at crossings.

356. Every person who is intoxicated while in charge of a locomotive

Drunken man not to run engine.

tive engine, or while acting as conductor or driver upon any railroad train or car, whether propelled by steam or drawn by horses, or while acting as train dispatcher, or as telegraph operator, receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor.

Freight cars not to be run behind passenger cars.

357. Every person who, in making up or running railroad trains, places or runs, or causes to be placed or run, any freight cars in the rear of passenger cars, is guilty of a misdemeanor; and if loss of life or limb results from such placing or running, is guilty of felony. The term "freight car," as used in this section, does not include a baggage, express, or mail car.

Engineers, etc., who violate duty.

358. Every engineer, conductor, brakeman, switch-tender, or other officer, agent, or servant of any railroad company, who is guilty of any wilful violation or omission of his duty as such officer, agent or servant, whereby human life or safety is endangered, the punishment of which is not otherwise prescribed, or any person or corporation knowingly employing any such person, is guilty of a misdemeanor.

Exposing persons who have contagious diseases.

359. Every person who wilfully exposes himself or another afflicted with any contagious or infectious disease in any public place or thoroughfare, except in his necessary removal in a manner the least dangerous to the public health, is guilty of a misdemeanor.

Engineers, etc., must not obstruct public highway.

360. Any engineer, conductor or other employee of any corporation operating a railway in this territory, who shall suffer or permit any locomotive or cars to be or remain upon the crossing of any public highway over such railway so as to obstruct travel over such crossing for a period exceeding fifteen minutes, is guilty of a misdemeanor, except in cases of unavoidable accident.

Selling liquors to Indians or drunkards.

361. Every person who sells or furnishes, or causes to be sold or furnished, intoxicating liquors to any Indian or habitual or common drunkard, is guilty of a misdemeanor.

Regulating the sale of arms to Indians.

362. Any person who sells, gives, rents, barter or furnishes any rifles, carbines, pistols or revolvers, or any ammunition or cartridges for rifles, carbines, pistols or revolvers, or any shot larger in size than standard number six (6) shot, or any spirit, malt or vinous liquor, to Indians, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one or more than six months, or by a fine not less than fifty dollars or more than three hundred dollars, or by both such imprisonment and fine.

Poison must be kept separate.

363. Every pharmacist, druggist, apothecary or storekeeper shall keep any and all poisons which he may have in his store, in a closet in such store, separate and apart from any place in which he may keep

any other drugs or articles which he has for sale, and all such poisons shall be in packages, boxes, or bottles upon which is distinctly written or printed, in the English language, the name of such poison.

364. Any person violating the provisions of the preceding section is guilty of a misdemeanor. Penalty.

365. All physicians and accouchers in this territory shall report, in writing, to the county recorder in the county in which they occur, all births and deaths which come under their supervision, with the cause of death, within thirty days after such birth or death. When any birth or death shall take place and no physician or accoucher shall be in attendance, the same shall, within thirty days thereof, be reported, in writing, to the county recorder where the same shall have occurred, with the supposed cause of death, by the parent, or husband, or wife, or the next of kin (not a minor) of the child born or person deceased, as the case may be, or if there be none, then by the owner or lessor of the house where the death shall have occurred, or by the person first discovering the deceased person. Any violation of this section is punishable by a fine not exceeding twenty dollars. The recorder shall file such notice without charge. Births and deaths must be reported.

366. It shall be unlawful for any person to dig up, cut, open or destroy the pipe, pipes or any man-hole of any sewer or sewer system used by the public in this territory, or in any manner to impede the flow of the sewage conducted thereby and therein or to interfere with the operation of said sewer or sewer system, without the permission of the management operating said sewer or sewer system. Cutting sewer pipes.

367. Any person who shall violate any provision of the preceding section shall be guilty of a misdemeanor. Penalty.

TITLE XI.

OF CRIMES AGAINST THE PUBLIC PEACE.

368. Every person who without authority of law, wilfully disturbs or breaks up, or attempts to disturb or break up, any assembly or meeting not unlawful in its character, is guilty of a misdemeanor. Disturbing lawful assembly.

369. Any use of force or violence disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot. Riot defined.