CHAPTER 945

GAMBLING

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3. An amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to prizes, toys and novelties, each having a wholesale value which is not more than 7 times the cost charged to play the amusement device once or $5, whichever is less. In this subdivision, “skill” means, within an opportunity provided for all players fairly to obtain prizes or rewards of merchandise, a player’s precision, dexterity or ability to use his or her knowledge which enables him or her to obtain more frequent rewards or prizes than does another less precise, dextrous or knowledgeable player.

4. Gambling place. (a) A gambling place is any building or tent, any vehicle (whether self-propelled or not) or any room within any of them, one of whose principal uses is any of the following: making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling machines.

(b) Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be professional gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

(c) Any gambling place is a public nuisance and may be proceeded against under ch. 823.

5. Lottery. (a) A lottery is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance, even though accompanied by some skill.

(b) 1. “Consideration” in this subsection means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant, but does not include any advantage to the promoter or disadvantage to any participant caused when any participant learns from newspapers, magazines and other periodicals, radio or television where to send the participant’s name and address to the promoter.
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2. In any game, drawing, contest, sweepstakes, or other promotion, none of the following constitutes consideration under this subsection:
   a. Listening to or watching a television or radio program.
   b. Filling out a coupon or entry form that is received through mail to a designated address.
   c. Furnishing proof of purchase if the proof required does not consist of more than the container of any product as packaged by the manufacturer, or a part of the container, or a facsimile of either.
   d. Sending the coupon or entry form and proof of purchase by mail to a designated address.
   e. Filling out a coupon or entry form obtained and deposited on the premises of a bona fide trade fair or trade show defined as an exhibition by 5 or more competitors of goods, wares, or merchandise at a location other than a retail establishment or shopping center or other place where goods and services are customarily sold; but if an admission fee is charged to the exhibition all facilities for obtaining and depositing coupons or entry forms shall be outside the area for which an admission fee is required.
   f. Visiting a mercantile establishment or other place without being required to make a purchase or pay an admission fee.
   g. Using a chance promotion exempt under s. 100.16 (2).
   h. An employee referring a person to the employee's employer to purchase goods or services from the employer, or identifying for the employer a person who may purchase goods or services from the employer, regardless of whether the employee who makes the referral or identification is compensated in any manner for the referral or identification.
   i. A deposit of an amount of money in an account that results in an entry in a savings promotion program under s. 186.114, 214.595, 215.137, or 221.0329 or a program sponsored by a federally chartered financial institution, or in which a federally chartered financial institution participates, that meets all requirements for a savings promotion program under s. 186.114, 214.595, 215.137, or 221.0329.

(6) WIRE COMMUNICATION FACILITY. "Wire communication facility" means any and all instrumentalities, personnel and services, and among other things the receipt, forwarding or delivery in an entry in a savings promotion program under s. 186.114, 214.595, 215.137, or 221.0329.

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manufactured before December 31, 1974, that is exempt from the prohibition under s. 945.05 (1) because it is intended to be used solely for display, restoration and preservation purposes.

(2) No person to whom a license or permit has been issued under ch. 125 may do any of the following:
   (a) Set up or keep an exempt slot machine on the premises for which the license or permit is issued.
   (b) Permit another person to set up or keep an exempt slot machine on the premises for which the license or permit is issued.

(3) A person who violates sub. (2) may be required to forfeit not more than $500 for each violation.

History: 1999 a. 134.

945.04 Permitting premises to be used for commercial gambling. (1m) Except as provided in sub. (2m), whoever intentionally does any of the following is guilty of a Class A misdemeanor:
   (a) Permits any real estate owned or occupied by him or her under his or her control to be used as a gambling place; or
   (b) Permits a gambling machine to be set up for use for the purpose of gambling in a place under his or her control.

(2m) If the violation of sub. (1m) involves the setup or use of not more than 5 video gambling machines on premises for which a Class “B” or “Class B” license or permit has been issued under ch. 125, the person may be penalized as follows:
   (a) If the violation involves one video gambling machine, the person may be required to forfeit not more than $500.
   (b) If the violation involves 2 video gambling machines, the person may be required to forfeit not more than $1,000.
   (c) If the violation involves 3 video gambling machines, the person may be required to forfeit not more than $1,500.
   (d) If the violation involves 4 video gambling machines, the person may be required to forfeit not more than $2,000.
   (e) If the violation involves 5 video gambling machines, the person may be required to forfeit not more than $2,500.

History: 1977 c. 173; 1993 a. 486; 1999 a. 9, 185.

945.04(1) Revocation of license and injunction against gambling devices. (1) A license or permit issued under ch. 125 to any person who knowingly permits any slot machine, roulette wheel, other similar mechanical gambling device, or number jar or other device designed for like form of gambling, or any horse race betting or other bookmaking as defined in s. 945.01, or solicitation of drinks from customers under s. 944.36 to be set up, kept, managed, used or conducted upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by the person, shall be revoked by the circuit courts by a special proceeding as provided in this section. If a license or permit has been revoked no other license or permit of any character provided for by ch. 125 may be issued to the person who held the license or permit, prior to the expiration of one year from the effective date of the revocation. If any appeal is taken from the revocation, any period during which the order is stayed shall be added to the one year.

(2) Any sheriff, undersheriff, deputy sheriff, constable or other municipal police officer or any person authorized to enforce the gambling laws under s. 165.60 shall within 10 days after acquiring such information report to the district attorney of the county the name and address of any licensee or permittee under ch. 125 who to his or her knowledge has knowingly suffered or permitted any device in sub. (1) or any horse race betting to be set up, kept, managed, used or conducted upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by such licensee or permittee. Such officer or person shall also report to the district attorney knowledge of the circumstances and the name of the municipality or officer by whom the license or permit has been issued. Any other person may in writ-
remove any such sheriff or district attorney under s. 17.16 by filing a complaint on the governor’s own motion. 

(9) Every officer and district attorney shall keep a written record of reports made by or to him or her under sub. (2). 

(10) No proceeding under this section may be commenced for violations of ch. 563. 

(11) No proceeding under this section may be commenced to revoke a Class “B” or “Class B” license or permit issued under ch. 125 to a person solely because the person knowingly permits 5 or fewer video gambling machines to be set up, kept, managed, used or conducted upon the licensed premises. 

495.05 Dealing in gambling devices. (1) Except as provided in subs. (1e) (b) and (1m), whoever manufactures, transfers commercially or possesses with intent to transfer commercially either of the following is guilty of a Class I felony: 

(a) Anything which he or she knows evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet; or 

(b) Any device which he or she knows is designed exclusively for gambling purposes or anything which he or she knows is designed exclusively as a subassembly or essential part of such device. This includes without limitation gambling machines, numbers jars, punch boards and roulette wheels. Playing cards, dice, permanently disabled gambling machines and slot machines manufactured before December 31, 1974, that are intended to be used solely for display, restoration and preservation purposes shall not be considered devices exclusively for gambling purposes. 

(1e) (a) In this subsection, “authorized gambling facility” means any of the following: 

1. An Indian gaming facility, as defined in s. 569.01 (1j). 

2. A gaming establishment located on lands acquired after October 17, 1998, by the U.S. secretary of the interior in trust for the benefit of an Indian tribe. 

3. A facility at which gambling lawfully takes place. 

(b) Subsection (1) does not apply to a person who manufactures, transfers commercially or possesses with intent to transfer commercially gambling devices described in sub. (1) (a) and (b) to any of the following: 

1. An authorized gambling facility. 

2. A nonprofit or public educational institution that provides an educational program for which it awards a bachelor’s or higher degree for the use in a casino gaming management class. 

(1m) If a violation of sub. (1) involves the commercial transfer of a video gambling machine or possession of a video gambling machine with the intent to transfer commercially, the person is subject to a Class C forfeiture. 

(2) Proof of possession of any device designed exclusively for gambling purposes, which is less than 25 years old, is not in a gambling place and is not set up for use, is prima facie evidence of possession with intent to transfer. 

(3) Any motor vehicle or aircraft, used or employed to aid in or to facilitate the unlawful manufacture or commercial transfer of those gambling devices enumerated in sub. (1), may be seized by any peace officer and shall be forfeited to the state in an action brought by the attorney general or the district attorney of the county where the vehicle or aircraft is subject to forfeiture and such action shall be in the name of and on behalf of the state in accordance with ch. 778. Lienholders and owners shall have the same rights as provided in s. 139.40. 

History: 1977 c. 173, 297; 1979 c. 32 s. 92 (8); 1993 a. 486; 1999 a. 9, 134; 2001 a. 16, 109. 

Dissemination of out-of-state lottery tickets by business establishments in Wisconsin, with or without a purchase, violates sub. (1) (a). 75 Atty. Gen. 47. 

495.06 Public utilities to cease service. When any public utility, common carrier, contract carrier, or railroad, subject to the jurisdiction of the public service commission, office of the commissioner of railroads or department of transportation of this state, is notified in writing by a federal, state or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in violation of the laws of this state it shall discontinue or refuse the leasing, furnishing or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any such public utility, common carrier, contract carrier or railroad, for any act done in compliance with any notice received from a law enforcement agency under this section. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination as otherwise provided by law in any court or tribunal or agency, that such facility should not be discontinued or removed, or should be restored. 

History: 1977 c. 29 s. 1654 (9) (i); 1981 c. 347 s. 80 (2); 1993 a. 16, 123. 

495.07 Gambling by participants in contest. (1) Any participant in, or any owner, employer, coach or trainer of a participant in, any contest of skill, speed, strength or endurance of persons, machines or animals at which admission is charged, who makes a bet upon any opponent in such contest is guilty of a Class A misdemeanor. 

(2) In this section, “participant” includes any person who is selected or who expects to take part in any such contest. 

History: 1975 c. 94; 1977 c. 173. 

495.08 Bribery of participant in contest. (1) Any person who, with intent to influence any participant to refrain from exerting full skill, speed, strength or endurance, transfers or promises any property or any personal advantage to or on behalf of any participant in a contest of skill, speed, strength or endurance is guilty of a Class H felony. 

(2) Any participant in any such contest who agrees or offers to refrain from exerting full skill, speed, strength or endurance in return for any property or any personal advantage transferred or promised to the participant or another is guilty of a Class A misdemeanor. 

(3) In this section “participant” includes any person who is selected to or who expects to take part in any such contest. 


495.09 Commercial printing. Sections 495.02, 495.03 and 495.05 do not apply to any person who operates a commercial printing business and without consideration other than fair and customary printing charges, prints and sells tickets in the ordinary course of business which have been ordered by a customer in another state to be sold in that state, if the lottery is lawful in the state from which the order is placed and the order is shipped to such customer in that state. 

History: 1977 c. 66. 

495.095 Shipbuilding business. (1) Notwithstanding ss. 495.03, 495.04 and 495.05, a person may construct, deliver, convert or repair a vessel that is equipped with gambling devices if all of the following conditions are satisfied: 

(a) The work performed on the vessel is ordered by a customer who shall use or possess the vessel outside of this state in a locality where the use or possession of the gambling devices on the vessel is lawful. 

(b) The person performs the work on the vessel that is equipped with the gambling devices at a shipbuilding business that is located in Sturgeon Bay, Manitowoc, Marinette, Superior or La Crosse, Wisconsin. 

(c) The person registers with the U.S. attorney general, pursuant to 15 USC 1173, and specifies in that registration that the person is in the business of installing and removing gambling devices, as defined in 15 USC 1171 (a), as part of the process of performing work on vessels ordered by a customer who shall use
or possess the vessel outside of this state in a locality where the use or possession of the gambling devices on the vessel is lawful.

(d) The person provides the department of administration, prior to the importation of the gambling devices into the state, all records that account for the gambling devices, including the identification number affixed to each gambling device by the manufacturer, and that identify the location where the gambling devices will be stored prior to the installation of the gambling devices on the vessel.

(e) The person stores the gambling devices at a secured warehouse facility and permits any person authorized to enforce the gambling laws under s. 165.50 to inspect the facility where the gambling devices are stored and any records relating to the gambling devices.

(f) If the person removes used gambling devices from a vessel, the person shall provide the department of administration with an inventory of the used gambling devices prior to their removal from the vessel. The inventory shall include the identification number affixed to each gambling device by the manufacturer.

(g) The person submits documentation to the department of administration, no later than 30 days after the date of delivery, that the vessel equipped with gambling devices has been delivered to the customer who ordered the work performed on the vessel.

(h) The person does not sell a gambling device to any other person except to a customer who shall use or possess the gambling device outside of this state in a locality where the use or possession of the gambling device is lawful. If a person sells a gambling device to such a customer, the person shall submit documentation to the department of administration, no later than 30 days after the date of delivery, that the gambling device has been delivered to the customer.

(2) If any person who constructs, delivers, converts or repairs a vessel that is equipped with gambling devices does not satisfy all of the conditions under sub. (1), the person is subject to ss. 945.03, 945.04 and 945.05.

History: 1995 a. 11, 27, 225; 1997 a. 27.

945.10 Prizes forfeited. Anything of value received by any person as a prize in any lottery conducted in violation of this chapter shall be forfeited to the state and may be recovered in any proper action brought by the attorney general or any district attorney in the name and on behalf of the state.

945.12 Endless sales chains. Whoever sets up, promotes or aids in the promotion of a plan by which motor vehicles are sold to a person for a consideration and upon the further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods or something of value, depending upon the number of persons joining in the plan, shall be held to have set up and promoted a lottery and shall be punished as provided in s. 945.02. The further prosecution of any such plan may be enjoined.

Cross-reference: See also s. 218.0116 (1) (jm) as to endless chain vehicle sales.

945.13 Interstate transportation of gambling devices. Pursuant to the authority granted the state in 15 USC 1172, which makes unlawful the transportation of any gambling device to any place in a state or a possession of the United States from any place outside of the state or the possession, this state exempts Sturgeon Bay, Manitowoc, Marinette, Superior and La Crosse, Wisconsin, from the application of 15 USC 1172.

History: 1995 a. 11, 225.