

CHAPTER 945

GAMBLING

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945.01 Definitions relating to gambling.

(1) **BET.** A bet is a bargain in which the parties agree that, dependent upon chance even though accompanied by some skill, one stands to win or lose something of value specified in the agreement. But a bet does not include:

(a) Bona fide business transactions which are valid under the law of contracts including without limitation:

1. Contracts for the purchase or sale at a future date of securities or other commodities, and

2. Agreements to compensate for loss caused by the happening of the chance including without limitation contracts of indemnity or guaranty and life or health and accident insurance;

(b) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the bona fide owners of animals or vehicles entered in such contest;

(c) A lottery as defined in this section.

(2) **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 his name and address to the promoter.

2. In any game, drawing, contest, sweepstakes or other promotion, none of the following shall constitute consideration under this subsection:

a. To listen to or watch a television or radio program.

b. To fill out a coupon or entry blank which is received through the mail or published in a

newspaper or magazine, if facsimiles thereof are acceptable.

c. To furnish 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 thereof, or a facsimile of either.

d. To send the coupon or entry blank and proof of purchase by mail to a designated address.

e. To fill out a coupon or entry blank 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 such exhibition all facilities for obtaining and depositing coupons or entry blanks shall be outside the area for which an admission fee is required.

(3) **GAMBLING MACHINE.** A gambling machine is a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine.

(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. 280.

(5) **BOOKMAKING.** "Bookmaking" means the receiving, recording or forwarding of a bet or offer to bet on any contest of skill, speed, strength or endurance of man or beast.

(6) **WIRE COMMUNICATION FACILITY.** "Wire communication facility" means any and all instrumentalities, personnel and services, and among other things the receipt, forwarding or delivery of communications used or useful in the transmission of writings, signs, pictures and sounds of all kinds by means of wire, cable, microwave or other like connection between the points of origin and reception of such transmission.

945.02 Gambling. Whoever does any of the following may be fined not more than \$500 or imprisoned not more than 6 months or both:

- (1) Makes a bet; or
- (2) Enters or remains in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling machine; or
- (3) Conducts a lottery, or with intent to conduct a lottery, possesses facilities to do so.

945.03 Commercial gambling. Whoever intentionally does any of the following is engaged in commercial gambling and may be fined not more than \$5,000 or imprisoned not more than one year or both:

- (1) Participates in the earnings of or for gain operates or permits the operation of a gambling place; or
- (2) For gain, receives, records or forwards a bet or offer to bet or, with intent to receive, record or forward a bet or offer to bet, possesses facilities to do so; or
- (3) For gain, becomes a custodian of anything of value bet or offered to be bet; or
- (4) Conducts a lottery where both the consideration and the prize are money, or with intent to conduct such a lottery, possesses facilities to do so; or
- (5) Sets up for use for the purpose of gambling or collects the proceeds of any gambling machine; or
- (6) For gain, maintains in this state any record, paraphernalia, tickets, certificates, bills, slip, token, paper, writing or other device used, or to be used, or adapted, devised or designed for use in gambling; or

(7) For gain, uses a wire communication facility for the transmission or receipt of information assisting in the placing of a bet or offer to bet on any sporting event or contest, or for the transmission of a wire communication

which entitles the recipient to receive money or credit as a result of a bet or offer to bet.

The offense of commercial gambling is distinguishable from the offense of making a bet and the statute is not unconstitutionally vague. *State v. Vlahos*, 50 W (2d) 609, 184 NW (2d) 817.

945.04 Permitting premises to be used for commercial gambling. Whoever intentionally does any of the following may be fined not more than \$200 or imprisoned not more than 6 months or both:

- (1) Permits any real estate owned or occupied by him or under his control to be used as a gambling place; or
- (2) Permits a gambling machine to be set up for use for the purpose of gambling in a place under his control.

945.05 Dealing in gambling devices. (1) Whoever manufactures, transfers commercially or possesses with intent to transfer commercially either of the following may be fined not more than \$5,000 or imprisoned not more than one year or both:

(a) Anything which he 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 knows is designed exclusively for gambling purposes or anything which he 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 and permanently disabled gambling machines shall not be considered devices primarily for gambling purposes.

(2) Proof of possession of any device designed exclusively for gambling purposes, which 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. 288. Lienholders and owners shall have the same rights as provided in s. 139.40.

945.06 Public utilities to cease service.

When any public utility, common carrier, contract carrier, or railroad, subject to the jurisdiction of the public service commission 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.

945.07 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 man, machine or beast at which admission is charged, who makes a bet upon any opponent in such contest may be fined not more than \$1,000 or imprisoned not more than one year in county jail or both.

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

945.08 Bribery of participant in contest.

(1) Any person who, with intent to influence any participant to refrain from exerting his full skill, speed, strength or endurance, transfers or promises any property or any personal advan-

tage to or on behalf of any participant in a contest of skill, speed, strength or endurance may be fined not more than \$5,000 or imprisoned not more than 5 years or both.

(2) Any participant in any such contest who agrees or offers to refrain from exerting his full skill, speed, strength or endurance in return for any property or any personal advantage transferred or promised to himself or another may be fined not more than \$1,000 or imprisoned not more than one year in county jail or both.

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

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: As to endless chain sales, see also 218.01 (3) (a) 20.