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## **Gambling Criminal Offenses**

2C:37-1. Definitions □ The following definitions apply to this chapter and to chapter 64:

- a. "Contest of chance" means any contest, game, pool, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants or some other persons may also be a factor therein.
  
- b. "Gambling" means staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the actor's control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.

c. "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein does not thereby render material assistance to the establishment, conduct or operation of such game if he performs, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor or supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player."

d. "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a

game or scheme without charge. This definition, however, does not include any form of promise involving extension of a privilege of playing at a game without charge on a mechanical or electronic amusement device, other than a slot machine as an award for the attainment of a certain score on that device.

e. "Gambling device" means any device, machine, paraphernalia or equipment which is used or usable in the playing phases of any gambling activity, whether such activity consists of gambling between persons or gambling by a person involving the playing of a machine. Notwithstanding the foregoing, lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices.

f. "Slot machine" means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to

receive cash or tokens to be exchanged for cash, whether the payoff is made automatically from the machine or in any other manner whatsoever. A device so constructed, or readily adaptable or convertible to such use, is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability.

g. "Bookmaking" means advancing gambling activity by unlawfully accepting bets from members of the public upon the outcome of future contingent events as a business.

h. "Lottery" means an unlawful gambling scheme in which (a) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one or more of which chances are to be designated the winning ones; and (b) the winning chances are to be determined by a drawing or by some other method based upon the element of chance; and (c) the holders of the winning chances are to receive something of value.

i. "Policy" or "the numbers game" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

j. "Gambling resort" means a place to which persons may resort for engaging in gambling activity.

k. "Unlawful" means not specifically authorized by law.

L.1978, c. 95, s. 2C:37-1, eff. Sept. 1, 1979. Amended by L.1979, c. 176, s. 4, eff. Sept. 1, 1979; L.1982, c. 60, s. 1, eff. July 8, 1982. □ □ 2C:37-2 Promoting gambling

2C:37-2. Promoting Gambling.

a. Promoting Gambling Defined. A person is guilty of promoting gambling when he knowingly:

(1) Accepts or receives money or other property, pursuant to an agreement or understanding with any person whereby he

participates or will participate in the proceeds of gambling activity; or

(2) Engages in conduct, which materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation.

b. Grading. A person who violates the provisions of subsection a. by:

(1) Engaging in bookmaking to the extent he receives or accepts in any one day more than five bets totaling more than \$1,000.00; or

(2) Receiving, in connection with a lottery or policy scheme or

enterprise (a) money or written records from a person other than a player whose chances or plays are represented by such money or records, or (b) more than \$100.00 in any one day of money played in such scheme or enterprise, is guilty of a crime of the third degree and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$35,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2 b.

A person who violates the provisions of subsection a. by engaging in bookmaking to the extent he receives or accepts three or more bets in any two-week period is guilty of a crime of the fourth degree and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$25,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

Otherwise, promoting gambling is a disorderly persons offense and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$10,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

c. It is a defense to a prosecution under subsection a. that the person participated only as a player. It shall be the burden of the

defendant to prove by clear and convincing evidence his status as such player.

L.1978, c.95; amended 1979, c.178, s.69; 1997, c.181,  
s.9. □ □ 2C:37-3 Possession of gambling records

2C:37-3. Possession of Gambling Records.

a. A person is guilty of possession of gambling records when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

(1) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, including any paper or paper product in sheet form chemically converted to nitrocellulose having explosive characteristics as well as any water soluble paper or paper derivative in sheet form; or

(2) Of a kind commonly used in the operation, promotion or playing of a lottery or policy scheme or enterprise.

b. Defenses.



(1) It is a defense to a prosecution under subsection a. (2) which must be proven by the defendant by clear and convincing evidence that the writing, paper, instrument or article possessed by the defendant constituted, reflected or represented plays, bets or chances of the defendant himself in a number not exceeding 10.

(2) It is a defense to a prosecution under subsection a. which must be proven by the defendant by clear and convincing evidence that the writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or policy scheme or enterprise.

c. Grading. Possession of gambling records is a crime of the third degree and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$35,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b. when the writing, paper, instrument or article:

(1) In a bookmaking scheme or enterprise, constitute, reflect or

represent more than five bets totaling more than \$1,000.00; or

(2) In the case of a lottery or policy scheme or enterprise, constitute, reflect or represent more than one hundred plays or chances therein.

Otherwise, possession of gambling records is a disorderly persons offense and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$20,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

□ 2C:37-4. Maintenance of a Gambling Resort.

a. A person is guilty of a crime of the fourth degree if, having substantial proprietary or other authoritative control over premises which are being used with his knowledge for purposes of activities prohibited by N.J.S.2C:37-2 and N.J.S.2C:37-3, he permits such to occur or continue or makes no effort to prevent its occurrence or continuation and he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or will participate in the proceeds of such gambling activity on such premises and

notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$25,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

b. A person is guilty of a crime of the fourth degree if, having substantial proprietary or other authoritative control over premises open to the general public which are being used with his knowledge for purposes of gambling activity, he permits such to occur or continue or makes no effort to prevent its occurrence or continuation and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than \$25,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

L.1978, c.95; amended 1979, c.178, s.71; 1997, c.181,

s.11.□□2C:37-4.1. Shipboard gambling, crime; grading;

exception□1. a. A person is guilty of shipboard gambling when the person:

(1) knowingly causes, engages in or permits any gambling activity prohibited under N.J.S.2C:37-2, 2C:37-3 or 2C:37-4 to be conducted on a vessel that embarks from any point within the

State, and disembarks at the same or another point within the State, whether the gambling activity is conducted within or without the waters of the State; or

(2) manages, supervises, controls, operates or owns any vessel that embarks from any point within the State, and disembarks at the same or another point within the State, during which time the person knowingly causes or permits any gambling activity prohibited under this chapter, whether the gambling activity is conducted within or without the waters of the State.

b. Any person who violates the provisions of subsection a. of this section is guilty of a crime of the same degree as the most serious crime that was committed in violation of N.J.S.2C:37-2, 2C:37-3 or 2C:37-4, as appropriate.

c. This section shall not apply to gambling activity conducted on United States-flagged or foreign-flagged vessels during travel from a foreign nation or another state or possession of the United States up to the point of first entry into New Jersey waters or during travel to a foreign nation or another state or possession of

the United States from the point of departure from New Jersey waters, provided that nothing herein shall preclude prosecution for any other offense under this chapter.

L.1999,c.263,s.1. □ □ 2C:37-5. Gambling offenses; presumption

In any prosecution under this article in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute presumptive proof of the occurrence of such event.

L.1978, c. 95, s. 2C:37-5, eff. Sept. 1, 1979. □ □ 2C:37-6. Lottery offenses; no defense □ Any offense defined in this article which consists of the commission of acts relating to a lottery is no less criminal because the lottery itself is drawn or conducted without the State. This section shall not apply to any person who has in his possession or custody any paper, document, slip or memorandum of a lottery which is authorized, sponsored and operated by any state of the United States, provided that the paper, document, slip

or memorandum was purchased by the holder thereof in the State wherein such lottery was authorized, sponsored and operated.

L.1978, c. 95, s. 2C:37-6, eff. Sept. 1, 1979. □ □ 2C:37-6.1. Lottery equipment or advice for out of state utilization; manufacture, sale and transport; inapplicability of law providing penalty or disability □ No law providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery shall apply to the rendering of consultation or advice in connection with a lottery, or the manufacturing, processing, selling, possessing or transporting of equipment, tickets or materials, for use or designed for use in a lottery, if such lottery is (a) conducted by a state of the United States and such equipment, tickets or materials are for shipment out of this State to addresses within such state, or (b) not violative of the laws of a foreign country in which it is conducted or intended to be conducted and such equipment, tickets or materials are for shipment to foreign countries to persons or entities that can lawfully use such materials. For purposes of this section, "foreign country" means any empire, country, dominion, colony or protectorate, or any

subdivision or subdivisions thereof (other than the United States and its possessions).

A person except a player is guilty of possession of a gambling device when, with knowledge of the character thereof, he manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of:

a. A slot machine; or

b. Any other gambling device, believing that the same is to be used in the advancement of unlawful gambling activity.

Possession of a gambling device other than under such circumstances as would constitute a violation of section 116 of the "Casino Control Act" (P.L. 1977, c. 110; C. 5:12-1 et seq.) is a disorderly persons offense; provided, however, that possession of not more than one gambling device other than a slot machine for social use within the home shall not be an offense under this section; and provided further, however that possession of one or more antique slot machines shall not be an offense under this

section or under section 116 of the "Casino Control Act" (PL 1977, c. 110; C. 5:12-1 et seq.). As used in this section, "antique slot machine" means a slot machine which was manufactured prior to 1941. Nothing herein contained shall be construed to authorize the use of an antique slot machine for any unlawful purpose or for gaming.

L.1978, c. 95, s. 2C:37-7, eff. Sept. 1, 1979. Amended by L.1979, c. 176, s. 2, eff. Sept. 1, 1979. □ □ 2C:37-8. Gambling offenses; jurisdiction □ All offenses under this chapter shall be prosecuted in the Superior Court. □ □ 2C:37-7. Possession of a gambling device

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