

**20.00
GAMBLING**

**20.01
Definition Of Gambling**

A person commits the offense of gambling when he
[1] plays a game of chance or skill for money or other things of value.

[or]

[2] makes a wager upon the result of any [(game) (contest) (political nomination) (political appointment) (political election)].

[or]

[3] [(operates) (keeps) (owns) (uses) (purchases) (exhibits) (rents) (sells) (bargains for the sale or lease of) (manufactures) (distributes)] any gambling device.

[or]

[4] contracts to [(have or give himself or another the option to buy or sell) (buy or sell, at a future time,)] any [(grain or other commodity whatsoever) (stock or security of any company)], where, at the time of making such contract, it is intended by both parties thereto that the contract to buy or sell, or the option, whenever exercised, or the contract resulting therefrom, shall be settled, not by the receipt or delivery of such property, but by the payment only of differences in prices.

[or]

[5] knowingly [(owns) (possesses)] any [(book) (instrument) (apparatus)] by means of which bets or wagers [(have been) (are)] [(recorded) (registered)].

[or]

[6] knowingly possesses any money which he has received in the course of a bet or wager.

[or]

[7] sells pools upon the result of any [(game or contest of skill or chance) (political nomination) (political appointment) (political election)].

[or]

[8] [(sets up) (promotes)] any lottery or [(sells) (offers to sell) (transfers)] any [(lottery ticket) (share of a lottery)].

[or]

[9] [(sets up) (promotes)] any policy game or [(sells) (offers to sell) (knowingly possesses) (knowingly transfers)] any [(policy ticket) (policy slip) (policy record) (policy document) [or other similar device]].

[or]

[10] knowingly [(drafts) (prints) (publishes)] any [(lottery ticket) (lottery share) (policy ticket) (policy slip) (policy record) (policy document) [or similar device]].

[or]

[11] knowingly advertises any [(lottery) (policy game)].

[or]

[12] knowingly transmits information as to [(wagers) (betting odds) (changes in betting odds)] by [(telephone) (telegraph) (radio) (semaphore) [or similar means]].

[or]

[13] knowingly [(installs) (maintains)] equipment for the [(transmission) (receipt)] of information as to [(wagers) (betting odds) (changes in betting odds)].

Committee Note

720 ILCS 5/28-1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-1 (1991)).

Give Instruction 20.02.

When the charge alleges the use of similar devices or similar means, give all the types of devices or means within the brackets.

Note the exception in Section 28-1(a)(4), regarding options or contracts to buy or sell.

Note the exception in Section 28-1(a)(9), regarding activities authorized by or conducted

in accordance with the law.

Note the exception in Section 28-1(a)(10), regarding activities authorized by or conducted in accordance with the law.

Note the exception in Section 28-1(a)(11), regarding news reporting.

Note the exclusions contained in Section 28-1(b).

See Instruction 20.01A, defining the term “gambling device.”

See Instruction 20.01B, defining the word “lottery.”

See Instruction 20.01C, defining the term “policy game.”

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

20.01A
Definition Of A Gambling Device

The term “gambling device” means

[1] any clock, tape machine, slot machine, or other machines or device for the reception of money or other thing of value on chance or skill, or upon the action of which money or other thing of value is staked, hazarded, bet, won, or lost.

[or]

[2] any mechanism, furniture, fixture, equipment, or other device designed primarily for use in a gambling place.

Committee Note

720 ILCS 5/28-2(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-2(a) (1991)).

Give this instruction with paragraph [3], [9], or [10] of Instruction 20.01.

See Chapter 720, Sections 28-2(a)(1), (a)(2), and (a)(3) for exclusions to the definition of a gambling device.

Use applicable paragraphs.

20.01B
Definition Of Lottery

The word “lottery” means a scheme or procedure by which one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether the scheme or procedure is called a lottery, raffle, gift, sale, or some other name.

Committee Note

720 ILCS 5/28-2(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-2(b) (1991)).

Give this instruction with paragraph [8], [10], or [11] of Instruction 20.01.

See *People v. Eagle Food Centers, Inc.*, 31 Ill.2d 535, 202 N.E.2d 473 (1964).

20.01C
Definition Of Policy Game

The term “policy game” means any scheme or procedure by which a person promises or guarantees by any instrument, bill, certificate, writing, token, or other device that any particular number, character, ticket, or certificate shall, in the event of any contingency in the nature of a lottery, entitle the purchaser or holder to receive money, property, or evidence of debt.

Committee Note

720 ILCS 5/28-2(c) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-2(c) (1991)).

Give this instruction with paragraph [9] or [11] of Instruction 20.01.

20.02
Issues In Gambling

To sustain the charge of gambling, the State must prove the following proposition[s]:

[1] That the defendant played a game of chance or skill for money or other thing of value.

[or]

[2] That the defendant made a wager upon the result of any [(game) (contest) (political nomination) (political appointment) (political election)].

[or]

[3] That the defendant [(operated) (kept) (owned) (used) (purchased) (exhibited) (rented) (sold) (bargained for the sale or lease of) (manufactured) (distributed)] any gambling device.

[or]

[4] *First Proposition:* That the defendant contracted to [(have or give himself or another the option to buy or sell) (buy or sell, at a future time)] any [(grain or other commodity whatsoever) (stock or security of any company)]; and

Second Proposition: That, at the time of making such contract, both parties thereto intended that the contract to buy or sell, or the option whenever exercised, or the contract resulting therefrom, would be settled, not by the receipt or delivery of such property, but by the payment only of differences in prices.

[or]

[5] That the defendant knowingly [(owned) (possessed)] any [(book) (instrument) (apparatus)] by means of which bets or wagers [(had been) (were)] [(recorded) (registered)].

[or]

[6] That the defendant knowingly possessed any money which he had received in the course of a bet or wager.

[or]

[7] That the defendant sold polls upon the result of any [(game or contest of skill or chance) (political nomination) (political appointment) (political election)].

[or]

[8] That the defendant set up or promoted any lottery or [(sold) (offered to sell) (transferred)] any [(lottery ticket) (share of a lottery)].

[or]

[9] That the defendant [(set up) (promoted)] any policy game or [(sold) (offered to sell) (knowingly possessed) (knowingly transferred)] any [(policy ticket) (policy slip) (policy record) (policy document) [or similar device]].

[or]

[10] That the defendant knowingly [(drafted) (printed) (published)] any [(lottery ticket) (lottery share) (policy ticket) (policy slip) (policy record) (policy document) [or other similar device]].

[or]

[11] That the defendant knowingly advertised any [(lottery) (policy game)].

[or]

[12] *First Proposition:* That the defendant knowingly transmitted information as to [(wagers) (betting odds) (changes in betting odds)]; and

Second Proposition: That the defendant did so by [(telephone) (telegraph) (radio) (semaphore) [or similar means]].

[or]

[13] That the defendant knowingly [(installed) (maintained)] equipment for the [(transmission) (receipt)] of information as to [(wagers) (betting odds) (changes in betting odds)].

If you find from your consideration of all the evidence that [(this proposition) (each of these propositions)] has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that [(this proposition) (any one of these propositions)] has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/28-1 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §28-1 (1991)).

Give Instruction 20.01.

When the charge alleges the use of similar devices or similar means, give all the types of devices or means within the brackets.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of the court and counsel and should not be included in the instructions submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

20.03

Definition Of Keeping A Gambling Place

A person commits the offense of keeping a gambling place when he knowingly permits any real estate, vehicle, boat, or other property [(owned or occupied by him) (under his control)] to be used for the purpose of gambling.

Committee Note

720 ILCS 5/28-3 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-3 (1991)), as amended by P.A. 86-1029, effective February 7, 1990.

Give Instruction 20.01, defining gambling.

See Chapter 720, Section 28-3 for exclusions to the definition of keeping a gambling place.

Use applicable bracketed material.

20.04
Issues In Keeping A Gambling Place

To sustain the charge of keeping a gambling place, the State must prove the following propositions:

First Proposition: That the defendant knowingly permitted [(the premises at ____) (a ____)] to be used for the purposes of gambling; and

Second Proposition: That the ____ was [(owned or occupied by the defendant) (under the defendant's control)].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/28-3 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-3 (1991)), as amended by P.A. 86-1089, effective February 7, 1990.

Give Instruction 20.03.

Insert in the blanks a description of the place in question.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

20.05

Definition Of Syndicated Gambling--Policy

A person commits the offense of syndicated gambling when he knowingly uses any [(premises) (property)] for the purpose of receiving or he knowingly does receive from what is commonly called “policy” any

[1] money from a person other than the bettor or player whose bets or plays are represented by such money.

[or]

[2] written “policy game” records, made or used over a period of time, from a person other than the bettor or player whose bets or plays are represented by such written record.

Committee Note

720 ILCS 5/28-1.1(b) and (c) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-1.1(b) and (c) (1991)).

Give Instruction 20.06.

Give Instruction 20.01C, defining the term “policy game.”

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

20.06
Issues In Syndicated Gambling--Policy

To sustain the charge of syndicated gambling, the State must prove the following propositions:

First Proposition: That the defendant knowingly [(received) (used the premises at _____ for the purpose of receiving)] money from what is commonly known as “policy”; and

Second Proposition: That the person from whom defendant received such money was not the bettor or player whose bets or plays were represented by such money.

[or]

First Proposition: That the defendant knowingly [(received) (used the premises at _____ for the purpose of receiving)] written “policy game” records made or used over a period of time; and

Second Proposition: That the person from whom defendant received such written records was not the bettor or player whose bets or plays were represented by such written records.

If you find your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/28-1.1(b) and (c) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-1.1(b) and (c) (1991)).

Give Instruction 20.05.

Insert in the blanks a description of the place in question.

Use applicable paragraphs and bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

20.07

Definition Of Syndicated Gambling--Bookmaking

A person commits the offense of syndicated gambling when he receives or accepts more than five bets or wagers upon the result of any trials or contests of skill, speed, or power of endurance or upon any lot, chance, casualty, unknown or contingent event whatsoever, when the bets or wagers are of such size that the total amounts of money paid or promises to be paid to such person on account thereof exceeds \$2,000, regardless of the manner or form in which the bets or wagers are recorded.

Committee Note

720 ILCS 5/28-1.1(b) and (d) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-1.1(b) and (d) (1991)).

Note the exclusions in Sections 28-1.1(e)(1), (e)(2), (e)(3), and (e)(4).

20.08
Issues In Syndicated Gambling--Bookmaking

To sustain the charge of syndicated gambling, the State must prove the following propositions:

First Proposition: That the defendant received or accepted more than five bets or wagers upon the result of ____; and

Second Proposition: That such bets or wagers were of such size that the total amount of money paid or promised to be paid to defendant exceeded \$2,000.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/28-1.1(b) and (d) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §28-1.1(b) and (d) (1991)).

Give Instruction 20.07.

Insert in the blank the type of gambling.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.