STATE OF NEW YORK

7720

2021-2022 Regular Sessions

IN ASSEMBLY

May 20, 2021

Introduced by M. of A. VANEL -- (at request of the New York State Gaming Commission) -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to including video lottery gaming in certain gambling offenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 13, 22 and 27 of section 225.00 of the penal law, as added by chapter 174 of the laws of 2013, are amended to read as follows:

13. "Authorized gaming establishment" means any structure, structure and adjacent or attached structure, or grounds adjacent to a structure in which casino gaming, conducted pursuant to article thirteen of the racing, pari-mutuel wagering and breeding law, [~~or~~] Class III gaming, as authorized pursuant to a compact reached between the state of New York and a federally recognized Indian nation or tribe under the federal Indian Gaming Regulatory Act of 1988, **or video lottery gaming** is conducted and shall include all public and non-public areas of any such building, except for such areas of a building where either Class I or II gaming are conducted or any building or grounds [~~known as~~] **other than the gaming floor or gaming operations at** a video gaming entertainment facility, including facilities where food and drink are served, as well as those areas not normally open to the public, such as where records related to video lottery gaming operations are kept, except shall not include the racetracks or such areas where such video lottery gaming operations or facilities do not take place or exist, such as racetrack areas or fairgrounds [~~which~~] **that** are wholly unrelated to video lottery gaming operations, pursuant to section sixteen hundred seventeen-a [~~and paragraph five of subdivision a of section sixteen hundred twelve~~] of the tax law, as amended and implemented.

22. "Gaming regulatory authority" means, with respect to any authorized gaming establishment on Indian lands, territory or reservation, the

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

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Indian nation or tribal gaming commission, its authorized officers, agents and representatives acting in their official capacities or such other agency of a nation or tribe as the nation or tribe may designate as the agency responsible for the regulation of Class III gaming, jointly with the state gaming agency, conducted pursuant to a gaming compact between the nation or tribe and the state of New York, or with respect to any casino gaming authorized pursuant to article thirteen of the racing, pari-mutuel wagering and breeding law or video lottery gaming conducted pursuant to section sixteen hundred seventeen-a [~~and paragraph five of subdivision a of section sixteen hundred twelve~~] of the tax law, as amended and implemented.

27. "Unlawful gaming property" means:

(a) any device, not prescribed for use in [~~casinio~~] **casino** gaming **or video lottery gaming** by its rules, [~~which~~] **that** is capable of assisting a player:

(i) to calculate any probabilities material to the outcome of a contest of chance; or

(ii) to receive or transmit information material to the outcome of a contest of chance; or

(b) any object or article [~~which~~] **that**, by virtue of its size, shape or any other quality, is capable of being used in casino gaming **or video lottery gaming** as an improper substitute for a genuine chip, cheque, token, betting coupon, debit instrument, voucher or other instrument or indicia of value; or

(c) any unfair gaming equipment.

§ 2. Section 225.55 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 225.55 Gaming fraud in the second degree.

A person is guilty of gaming fraud in the second degree when he or she:

1. with intent to defraud and in violation of the rules of the casino gaming **or video lottery gaming**, misrepresents, changes the amount bet or wagered on, or the outcome or possible outcome of the contest or event [~~which~~] **that** is the subject of the bet or wager, or the amount or frequency of payment in the casino gaming **or video lottery gaming**; or

2. with intent to defraud, obtains anything of value from casino gaming **or video lottery gaming** without having won such amount by a bet or wager contingent thereon.

Gaming fraud in the second degree is a class A misdemeanor.

§ 3. Section 225.65 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows

§ 225.65 Use of counterfeit, unapproved or unlawful wagering instruments.

A person is guilty of use of counterfeit, unapproved or unlawful wagering instruments when in playing or using any casino gaming **or video lottery gaming** designed to be played with, received or be operated by chips, cheques, tokens, vouchers or other wagering instruments approved by the appropriate gaming regulatory authority, he or she knowingly uses chips, cheques, tokens, vouchers or other wagering instruments other than those approved by the appropriate gaming regulating authority and the state gaming agency or lawful coin or legal tender of the United States of America.

Possession of more than one counterfeit, unapproved or unlawful wagering instrument described in this section is presumptive evidence of possession thereof with knowledge of its character or contents.

Use of counterfeit, unapproved or unlawful wagering instruments is a class A misdemeanor.

§ 4. Section 225.70 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 225.70 Possession of unlawful gaming property in the third degree.

A person is guilty of possession of unlawful gaming property in the third degree when he or she possesses, with intent to use such property to commit gaming fraud, unlawful gaming property at a premises being used for casino gaming **or video lottery gaming**.

Possession of unlawful gaming property in the third degree is a class A misdemeanor.

§ 5. Section 225.75 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 225.75 Possession of unlawful gaming property in the second degree.

A person is guilty of possession of unlawful gaming property in the second degree when:

1. [~~He~~] **he** or she makes, sells, or possesses with intent to sell, any unlawful gaming property at a casino gaming facility **or video lottery gaming facility**, the value of which exceeds three hundred dollars, with intent that [~~it~~] **such property** be made available to a person for unlawful use; or

2. [~~He~~] **he** or she commits possession of unlawful gaming property in the third degree as defined in section 225.70 of this article, and the face value of the improper substitute property exceeds five hundred dollars; or

3. [~~He~~] **he** or she commits the offense of possession of unlawful gaming property in the third degree and has been previously convicted within the preceding five years of any offense of which an essential element is possession of unlawful gaming property.

Possession of unlawful gaming property in the second degree is a class E felony.

§ 6. Section 225.85 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 225.85 Use of unlawful gaming property.

A person is guilty of use of unlawful gaming property when he or she knowingly with intent to defraud uses unlawful gaming property at a premises being used for casino gaming **or video lottery gaming**.

Use of unlawful gaming property is a class E felony.

§ 7. The closing paragraph of section 225.90 of the penal law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

Manipulation of gaming outcomes at an authorized gaming establishment is a class A misdemeanor provided, however, that if the person has previously been convicted of this crime within the past five years this [~~crim~~] **crime** shall be a class E felony.

§ 8. This act shall take effect immediately.