

# 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:

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

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

24 22. "Gaming regulatory authority" means, with respect to any author-  
25 ized 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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1 Indian nation or tribal gaming commission, its authorized officers,  
2 agents and representatives acting in their official capacities or such  
3 other agency of a nation or tribe as the nation or tribe may designate  
4 as the agency responsible for the regulation of Class III gaming, joint-  
5 ly with the state gaming agency, conducted pursuant to a gaming compact  
6 between the nation or tribe and the state of New York, or with respect  
7 to any casino gaming authorized pursuant to article thirteen of the  
8 racing, pari-mutuel wagering and breeding law or video lottery gaming  
9 conducted pursuant to section sixteen hundred seventeen-a [~~and paragraph~~  
10 ~~five of subdivision a of section sixteen hundred twelve~~] of the tax law,  
11 as amended and implemented.

12 27. "Unlawful gaming property" means:

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

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

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

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

25 (c) any unfair gaming equipment.

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

28 § 225.55 Gaming fraud in the second degree.

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

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

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

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

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

42 § 225.65 Use of counterfeit, unapproved or unlawful wagering instru-  
43 ments.

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

53 Possession of more than one counterfeit, unapproved or unlawful wager-  
54 ing instrument described in this section is presumptive evidence of  
55 possession thereof with knowledge of its character or contents.

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

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

5 § 225.70 Possession of unlawful gaming property in the third degree.

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

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

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

14 § 225.75 Possession of unlawful gaming property in the second degree.

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

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

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

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

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

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

34 § 225.85 Use of unlawful gaming property.

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

38 Use of unlawful gaming property is a class E felony.

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

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

45 § 8. This act shall take effect immediately.