§ 225.00 Gambling offenses; definitions of terms.

The following definitions are applicable to this article:

1. "Contest of chance" means any contest, game, 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 may also be a factor therein.

2. "Gambling." A person engages in gambling when he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.

3. "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 otherwise render material assistance to the establishment, conduct or operation thereof by performing, 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 and supplying cards or other equipment used therein. A person who engages in "bookmaking", as defined in this section is not a "player."

4. "Advance gambling activity." A person "advances gambling activity" when, acting other than as a player, he 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. One advances gambling activity when, having substantial proprietary or other authoritative control over premises 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.

5. "Profit from gambling activity." A person "profits from gambling activity" when, other than as a player, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

6. "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.

7. "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.

7-a. A "coin operated gambling device" means a gambling device which operates as a result of the insertion of something of value. A device designed, constructed or readily adaptable or convertible for such use is a coin operated gambling device notwithstanding the fact that it may require adjustment, manipulation or repair in order to operate as such. A machine which awards free or extended play is not a gambling device merely because such free or extended play may constitute something of value provided that the outcome depends upon the skill of the player and not in a material degree upon an element of chance.

8. "Slot machine" means a gambling device which, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such manner that, depending upon elements of chance, it may eject something of value. 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. Nor is it any less a slot machine because, apart from its use or adaptability as such, it may also sell or deliver something of value on a basis other than chance. A machine which sells items of merchandise which are of equivalent value, is not a slot machine merely because such items differ from each other in composition, size, shape or color.

9. "Bookmaking" means advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

10. "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 provided, however, that in no event shall the provisions of this subdivision be construed to include a raffle as such term is defined in subdivision three-b of section one hundred eighty-six of the general municipal law.

11. "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.

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

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, 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 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 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.

14. "Authorized gaming operator" means an enterprise or business entity authorized by state or federal law to operate casino or video lottery gaming.

15. "Casino gaming" means games authorized to be played pursuant to a license granted under article thirteen of the racing, pari-mutuel wagering and breeding law or by federally recognized Indian nations or tribes pursuant to a gaming compact reached in accordance with the federal Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

16. "Cash equivalent" means a treasury check, a travelers check, wire transfer of funds, transfer check, money order, certified check, cashiers check, payroll check, a check drawn on the account of the authorized gaming operator payable to the patron or to the authorized

gaming establishment, a promotional coupon, promotional chip, promotional cheque, promotional token, or a voucher recording cash drawn against a credit card or charge card.

17. "Cheques" or "chips" or "tokens" means nonmetal, metal or partly metal representatives of value, redeemable for cash or cash equivalent, and issued and sold by an authorized casino operator for use at an authorized gaming establishment. The value of such cheques or chips or tokens shall be considered equivalent in value to the cash or cash equivalent exchanged for such cheques or chips or tokens upon purchase or redemption.

18. "Class I gaming" and "Class II gaming" means those forms of gaming that are not Class III gaming, as defined in subsection eight of section four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703.

19. "Class III gaming" means those forms of gaming that are not Class I or Class II gaming, as defined in subsections six and seven of section four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703 and those games enumerated in the Appendix of a gaming compact.

20. "Compact" or "gaming compact" means the agreement between a federally recognized Indian tribe and the state of New York regarding Class III gaming activities entered into pursuant to the federal Indian Gaming Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988 & Supp. II).

21. "Gaming equipment or device" means any machine or device which is specially designed or manufactured for use in the operation of any Class III or video lottery game.

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

23. "Premises" includes any structure, parking lot, building, vehicle, watercraft, and any real property.

24. "Sell" means to sell, exchange, give or dispose of to another.

25. "State gaming agency" shall mean the New York state gaming commission, its authorized officials, agents, and representatives acting in their official capacities as the regulatory agency of the state which has responsibility for regulation with respect to video lottery gaming or casino gaming.

26. "Unfair gaming equipment" means loaded dice, marked cards, substituted cards or dice, or fixed roulette wheels or other gaming equipment which has been altered in a way that tends to deceive or tends to alter the elements of chance or normal random selection which determine the result of the game or outcome, or the amount or frequency of the payment in a game.

27. "Unlawful gaming property" means:

(a) any device, not prescribed for use in casinio gaming by its rules, which 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, by virtue of its size, shape or any other quality, is capable of being used in casino 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.

28. "Video lottery gaming" has the meaning set forth in subdivision six of section sixteen hundred two of the tax law.

29. "Voucher" means an instrument of value generated by a video lottery terminal representing a monetary amount and/or play value owed to a customer at a specific video lottery terminal based on video lottery gaming winnings and/or amounts not wagered.