

## ILLINOIS

### I. Definition of Gambling

#### 1. Gambling means:

A person gambles when he plays or offers a game of chance or skill for money or other thing of value, unless an exemption applies. 720 Ill. Comp. Stat. 5/28-1 (2009).

#### 2. Under Gambling does not include:

- a. Pari-mutuel betting; 720 Ill. Comp. Stat. 5/28-1 (2009).
- b. The game known as "bingo" does not constitute illegal gambling if the game is conducted in accordance with the Bingo License and Tax Act, *id.*,
- c. Lotteries when conducted by the State of Illinois in accordance with the Illinois Lottery Law; *id.*,
- d. Raffles when conducted in accordance with the Raffles Act; *id.*,
- e. Charitable games when conducted in accordance with the Charitable Games Act; *id.*,
- f. Pull tabs and jar games when conducted under the Illinois Pull Tabs and Jar Games Act; *id.*, and
- g. Gambling games conducted on riverboats when authorized by the Riverboat Gambling Act. 230 Ill. Comp. Stat. 20/1, 720 Ill. Comp. Stat. 5/28-1b8-10, 720 Ill. Comp. Stat. 5/28-1b11 (2009).
- h. Under the Criminal Code agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guarantee and life, health or accident insurance do not constitute gambling.

Offers of prizes, awards or compensation to the actual contestants in any bona fide contest for the determination of skill, speed, strength or endurance or to the owners of animals or vehicles entered in such a contest does not constitute gambling.<sup>16</sup> Pari-mutuel betting is legal if authorized by Illinois law.

These exceptions were intended by the legislature to apply to the statutory proscription on wagering upon the result of any game, contest, or any political nomination, appointment or election. *Cie v. Comdata Network*, 275 Ill. App. 3d 759 (1995), *See also* Illinois Jurisprudence, Criminal Law § 59:01.

### 3. **Gambling transaction**

To constitute a gambling transaction, it must be made to appear that neither party intended the commodity purchased to be delivered, but both intended the transaction should be settled on differences. *Salzman v. Boeing*, 304 Ill. App. 405, 26 N.E.2d 696 (1 Dist. 1940).

#### **“Any” chance**

The state of Illinois seems to apply the “any” chance test for determining what is gambling. Illinois strictly prohibits all types of gambling whether chance or skill unless specifically exempted. The Illinois Criminal Code provides in part: A person commits gambling when he plays or offers a game of chance or skill for money or other thing of value, unless they qualify as an exemption. 720 Ill. Comp. Stat. 5/28-1 (2009).

#### **Definition of bookmaking**

0. **Bookmaking is the receiving or accepting of such bets or wagers regardless of the form or manner in which the bookmaker records them.** 720 Ill. Comp. Stat. 5/28-1 (2009).

The payment of money wagered is not an element of the offense of bookmaking. *People v Dixon*, 219 Ill. App 3d 1, 579 N.E.2d 405 (1991).

1. **A person engages in bookmaking when:**

He or she 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, if the bets or wagers are of such a size that the total of the amounts of money paid or promised to be paid to the bookmaker on account thereof exceeds \$ 2,000. *Id.*

The offense of bookmaking is complete when the defendant receives or accepts the requisite number and amount of bets, rather than when he or she receives or expects to receive the money wagered. 720 Ill. Comp. Stat. 5/28-1.1d (2009), *see also* *People v Miller*, 128 Ill App 3d 574, 470 N.E.2d 1222 (1984).

A person violates 720 Ill. Comp. Stat. 5/28-1 providing that person commits gambling when he knowingly owns or possesses any book, instrument, or apparatus by means of which bets or wagers have been or are, recorded or registered is not the possession of instruments by means of which bets might have been or could be recorded. *People v. Galan*, 110 Ill. App.2d 98, 249 N.E.2d 118 (1969).

Expenses for rent and wages incurred in operation of bookmaking enterprise, unlawful in state, were nevertheless deductible from gross income for income tax purposes. *Sullivan v. C.I.R.*, 241 F.2d 46 (1957).

In *People v. Dugan*, 109 Ill.2d 8, 485 N.E.2d 315 (1985), the court held that slips of paper for recording horse race bets constituted a "book" for purpose of recording bets or wagers, within this section. However, record keeping was not essential element of "bookkeeping" for purposes of statute prohibiting syndicated gambling. *People v. Davis*, 34 Ill.2d 38, 213 N.E.2d 531 (1966).

### **Specific gaming Device definitions**

#### **0. Definition of a gambling device:**

A "gambling device" is 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 any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place. 720 Ill. Comp. Stat. 5/28-2 (2009).

#### **1. A "gambling device" does not include the following:**

- a. A coin-in-the-slot operated mechanical device played for amusement which rewards the player with the right to replay such mechanical device, which device is so constructed or devised as to make such result of the operation thereof depend in part upon the skill of the player and which returns to the player thereof no money, property or right to receive money or property.
- b. Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard.
- c. A crane game.

For the purposes of this paragraph, a "crane game" is an amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to toys, novelties and prizes other than currency, each having a wholesale value which is not more than 7 times the cost charged to play the amusement device once or \$5, whichever is less.

A redemption machine.

For the purposes of this paragraph (4), a "redemption machine" is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

- i. The outcome of the game is predominantly determined by the skill of the player.

- ii. The award of the prize is based solely upon the player's achieving the object of the game or otherwise upon the player's score.
- iii. Only merchandise prizes are awarded.
- iv. The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of \$5 or 7 times the cost charged for a single play of the device.
- v. The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.

## 0. **Licensing**

A county board may license, tax, regulate, or prohibit pinball games or machines, bagatelle, pigeon-hole, pool, or any other tables or implements kept for similar purpose in any place of public resort, outside the corporate limits of all cities, villages and incorporated towns and to license, tax or regulate bowling alleys and billiard establishments so located. 55 Ill. Comp. Stat. 5/5-1076 (2009).

### 1. **Keeping & purpose of a gambling device**

If the purpose of the machine, its quality and character, the possibilities of its operation and the manner in which it is susceptible of use are controlling factors in determining whether it is a gambling device. *Almy Mfg. Co. v. City of Chicago*, 202 Ill.App. 240 (1917).

Devices which are made or kept for gambling purposes and which have no potential for lawful use are gambling devices per se and are not lawful subjects of property that the law protects. *People v. Hall*, 56 Ill.App.2d 7, 204 N.E.2d 824 (1965). Roulette wheels, dice tables, poker tables and poker chips are gambling equipment per se. *People v. Three Roulette Wheels*, 325 Ill. App. 502, 60 N.E.2d 248 (1 Dist. 1945).

The mere keeping of slot machine was a violation of Laws without regard to purpose of keeping. *Bobel v. People*, 50 N.E. 322, 173 Ill. 19 (1898). Possession of gambling machines or devices not then being used for gambling purposes constituted violation pertaining to keeping of gambling devices upon which money was staked or hazarded.

Under the Criminal Code of 1961, with the exception of any device designed for gambling that is incapable of lawful use, no gambling device shall be forfeited or destroyed unless an individual with a property interest in the device knows of the unlawful use of the device. 720 Ill. Comp. Stat. 5/28-5(a) (2009),

Where a device is a prohibited gambling device within the meaning of the statute it has been held liable to seizure, forfeiture, or destruction even though it is not used for gambling purposes at the time of the seizure, *City of Chicago v. Sayer*, 70 N.E.2d 870, 330 Ill. App. 181 (1947), and if the article in question, whether it is chattel or money, is being used as an integral part of a gambling transaction or operation it should be considered as an implement of gambling and declared contraband. *People v. McDonald*, 26 Ill.2d 325, 186 N.E.2d 303 (1962).

### **Bucket shop laws**

In prosecution under laws prohibiting bucket shops, when evidence relied on was the sale of stocks, proof should show the stocks sold were stocks of a corporation. *People v. Wirsching*, 88 N.E. 169, 239 Ill. 522 (1909). Intention of keeper of bucket shop need not be averred or proved. *Caldwell v. People*, 67 Ill.App. 367 (1867).

### **Prohibition of games of skills**

#### **0. Poker/card Games**

In *People v. Mitchell*, 111 Ill.App.3d 1026, 444 N.E.2d 1153 (1983), the court held "Hold 'em" poker game played by defendants was precisely type of "game of chance or skill" which falls squarely within the definition of gambling. *Id.*

Blackjack tables which a private club proposed to use to conduct a promotion involving simulated gambling were designed primarily for use in a gambling place and therefore constituted gambling devices, despite the debate that tables would not be used for gambling purposes because players in the promotion would not be awarded money or any other consideration. *Playboy Hotel of Chicago, Inc. v. City of Chicago*, 147 Ill. App. 3d 984, 498 N.E.2d 663 (1986).

#### **1. Games using dice**

Normal dice, although not immoral per se or disapproved by the legislature, they are contraband if used with, a necessary part of, or absolutely connected or associated with other gambling paraphernalia when seized. *People v. Hall*, 56 Ill. App.2d 7, 204 N.E.2d 824 (1965).

In *People v. Hall*, 56 Ill.App.2d 7, 204 N.E.2d 824 (1965), pairs of dice, which were found in automobile searched under search warrant for stolen coins, and which were of assorted colors and sizes, and which were not numbered in normal manner, were "gambling devices" and contraband and were subject to seizure on sight as incident to otherwise lawful search. *Id.*

#### **2. Billiards**

The game of pool has been defined as a game played by two or more persons, on a billiard table with six pockets. It is a branch or kind of billiards; also a game at billiards in which each of the players stakes a certain sum, the winner taking the whole. Pool is one of the various games

played on a six-pocket billiard table; more specifically, pocket billiards. Village of Atwood v. Otter, 129 N.E. 573, 296 Ill. 70 (1921).

Playing billiards for checks, notes, or instruments understood by the parties to represent value, and by virtue of which the winner can in fact obtain value, whether they are collectible by law or not, is a violation of the statute against gaming. Gibbons v. People, 33 Ill. 443 (1864).

### 3. **Bowling**

Bowling establishment customer who uses device that, after customer inserts dime before rolling his first ball in any frame and after customer throws strike on such first ball, returns token to customer worth twenty-five cents towards purchase of merchandise or services at bowling establishment, is guilty of crime of gambling. 1977 Op. Atty. Gen. No. S-1218, *see also* 720 Ill. Comp. Stat. 5/28-1 (2009).

### 4. **Coin-in-the-slot operated pinball machines**

Coin-in-the-slot that are electrically operated devices containing three dials which were spun upon turning of a knob after insertion of a coin, and then stop in sequence lighting up pictures of certain animals, with replays awarded upon certain combinations, were not exempt under the code, in view of fact the device was not so constructed or devised as to make result of its operation depend, in part, upon the skill of the player. People v. One Mach. Known as "Circus Days", 23 Ill.App.2d 480, 163 N.E.2d 223 (1960).

Coin-in-the-slot operated pinball machines which were played for amusement and which rewarded player with right to replay and which were so constructed as to make result of their operation to depend in part on skill of player without returning to the players any consideration or right to receive consideration fell within statutory exception to definition of gambling device. White v. Ogilvie, 51 Ill. App. 2d 181, 201 N.E.2d 122 (1964).

## **Express Exemptions**

### 0. **Charity Gaming**

The Charitable Games Act (230 Ill. Comp. Stat. 30 (2009))

d. The Charitable Games Act as adopted to allow not-for-profit charitable, fraternal, labor, educational, veterans, local fraternal mutual benefit and religious organizations to raise funds by conducting casino-type gaming events.

Charitable Games Regulations are *available at*

<http://www.revenue.state.il.us/LegalInformation/Regs/part435/index.html>

Bingo & Raffles

Other forms of licensed gaming, such as bingo and raffles, may be played during an event. Licenses for these activities, however, must be obtained. Licenses for bingo must be obtained from the Department, while raffle licenses must be obtained from the county or municipal government responsible for licensing. See the Raffles Act (230 Ill. Comp. Stat. 15 (2006)).

In bingo, the statutory prize limit effectively puts a ceiling on the amount of money involved at any single bingo session. At charitable games events, if cash prizes are used, chips, scrip or play money can be cashed in for currency not to exceed \$250 per person. Ill. Adm. Code tit. 86 § 435.100 (2006).

Some of the charitable games rules are more restrictive than the bingo and raffle rules. The reason is that the charitable games events authorized by the Act are, to a much greater extent than bingo, subject to the abuses often associated with gambling. In turn, these abuses are more likely to occur because the amounts of money involved are potentially much greater, and the bigger the pot, the greater the danger of involvement by criminal elements. Ill. Adm. Code tit. 86 § 435.100 (2006).

No limit is imposed on the total amount of non-cash prizes. The General Assembly recognized the increased potential for violations at charitable games events, and the Act is consequently more restrictive in many ways than the Bingo License and Tax Act (230 Ill. Comp. Stat. 25 (2006)).

A few examples:

- i. eligibility for charitable games licenses is more limited; the number of events allowed is much smaller;
- ii. licensees must notify local law enforcement authorities of their charitable games events; the Illinois Department of Revenue (Department) may summarily suspend charitable games licenses before hearings are held;
- iii. record keeping requirements are more detailed; and
- iv. the criminal penalties for violation of the Act are much more severe (a second violation of the Act constitutes a felony). 86 Ill. Adm. Code tit. 86 § 435.100 (2006).

Violations of Act

- i. In addition, any person who violates any provision of the Act or knowingly violates any rule of the Department for the administration of the Act is, in addition to other penalties, subject to a civil penalty in the amount of \$250 for each separate violation.

The rules that follow reflect the statutory mandate. Ill. Adm. Code tit. 86 § 435.100 (2006).

#### Licensing:

Organizations applying for licenses must understand that their failure to comply fully with this Part and to cooperate with the Department's investigative efforts will inevitably mean that long-planned charitable games events will have to be postponed, or even cancelled. Ill. Adm. Code tit.86 § 435.100 (2006).

#### Constitutionality

- i. Charitable Games Act was not unconstitutionally vague in failing to define "charitable game" inasmuch as person of ordinary intelligence reading Act would know that only those games listed in Act could be played at charitable games event, that event would have to be licensed, and that either failure to obtain license or playing game not listed even with license would be gambling in violation of criminal code. *Earnhart v. Director of Ill. Dept. of Revenue*, 191 Ill.App.3d 613, 548 N.E.2d 81 (1989).
- ii. Charitable Games Act's disparate treatment of not-for-profit organizations and for-profit organizations--only not-for-profit organizations could be licensed under Act--did not violate equal protection; distinction was rationally related to state's interest in providing fundraising methods to serve charitable purposes while protecting against abuses associated with gambling. *Id.*

#### 1. **Bingo**

The game known as "bingo" does not constitute illegal gambling if the game is conducted in accordance with the Bingo License and Tax Act. 720 Ill. Comp. Stat. 5/28-1b5 (2006).

Bingo Regulations are *available at*

<http://www.revenue.state.il.us/LegalInformation/Regs/part430/index.html>

#### 3. **Lottery**

The Code generally prohibits all forms of gambling, except to the extent that the activities fall within one of the enumerated exceptions to the prohibition. 720 Ill. Comp. Stat. 5/28-1.

Exempted from the prohibition against gambling is participation in a lottery conducted pursuant to the Lottery Law. 720 Ill. Comp. Stat. 5/28-1 (b)(6) (2006).

- a. Definition of lottery:

- i. A "lottery" is any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win such prizes, whether such scheme or procedure is called a lottery, raffle, gift, sale or some other name. 720 Ill. Comp. Stat. 5/28-2 (2006).
- ii. In *People v. Eagle Food Centers, Inc.*, 31 Ill. 2d 535 (1964), the Illinois Supreme Court determined that the statutory definition of the term "lottery" simply codified the common law elements thereof.
- iii. Common law elements were established by:
  1. *Elder v. Chapman*, 176 Ill. 142, 52 N.E. 10 (1898), where the court defined a lottery as any plan, scheme or device by which one may secure a prize by chance., and
  2. *Iris Amusement Corporation v. Kelly*, 8 N.E.2d 648, 366 Ill. 256 (1937), where the court defined "lottery" as a chance for a prize for a price.
- b. Three elements essential to the existence of a lottery: chance, consideration and a prize; there is no lottery if any one of these elements or ingredients is missing. *People v. Eagle Food Centers, Inc.*, 31 Ill. 2d 535 (1964),
- c. The controlling fact in the determination of whether a given scheme or business is a lottery is if controlling inducement is the lure of an uncertain prize, then the business is a lottery. *G.A. Carney, Ltd.*, 117 Ill.App.3d 478, 453 N.E.2d 756 (1983).
- d. Where persons have paid or promised consideration for chance to win a prize and winner is determined by chance, there is a "lottery." *Midwest Television, Inc. v. Waaler*, 44 Ill. App.2d 401, 194 N.E.2d 653 (1963).

#### 4. **Horse Racing**

Pari-mutuel wagering in accordance with the provisions of the Illinois Horse Racing Act of 1975 is exempted from the statutory prohibition upon gambling. Atty Gen. Op., 2001 Ill. AG LEXIS 10, 2-8 (Ill. AG 2001).

Betting money on a horse race is gaming, and in violation of law. *Weiss v. Schachter*, 275 Ill. App. 26 (1935).

According to the code § 230 Ill. Comp. Stat. 5/39.1, no person shall, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in any pari-mutuel system of wagering on horse races. Nothing in this Section prohibits wagering transactions

authorized under this Act. Any person who violates this Section is guilty of a Class 4 felony. 230 Ill. Comp. Stat. 5/39.1 (2009). Additionally, a note given to pay a loss on bet between two persons on outcome of horse race is void. Weiss, 275 Ill.App. 26 (1935).

## 5. Other pari-mutuel

- a. Pari-mutuel is defined as a form of betting on horses in which those who bet on the winning horse share the total stakes, less a small percentage to the management. While the amount of money to be divided is indefinite as to dollars and cents, it is definite in that the amount of money to be divided is the total stakes on the winning horse, less a given percentage to the management. The persons among whom the money is to be divided are not uncertain, as they are those who bet on the winning horse. The winning horse is not determined by chance, alone, but the condition, speed, and endurance of the horse, aided by the skill and management of the rider or driver, enter into the result. 230 Ill. Comp. Stat. 5/39.1 (2009).
- b. The pari-mutuel system does not come within the constitutional inhibition as to lotteries. Pari-mutuel, is defined as a pool in betting as in a horse race, in which each bettor lays a fixed sum on the contestant that he selects, and those who choose the winner divide the entire stake, less the percentage of the person who furnishes the pool tickets; literally, mutual bets. *Id.*
- c. The use of the so-called pari-mutuel system of wagering on the results of dog races amounts to "pool selling." Hawthorne Kennel Club v. Swanson, 257 Ill. App. 499, transferred 339 Ill. 220, 171 N.E. 140 (1930).

## II. Specific Internet prohibition

Illinois is distinctive in its gambling policy in that it is one of only five states to specifically prohibit Internet gambling. The Illinois Criminal Code provides that a person commits gambling when "knowingly establishes, maintains, or operates an Internet site that permits a person to play a game of chance or skill for money or other thing of value by means of the Internet or to make a wager upon the result of any game, contest, political nomination, appointment, or election by means of the Internet." 720 Ill. Comp. Stat. 5/28-1(a)(12) (2009).

Internet" means the following:

An interactive computer service or system or an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, and includes, but is not limited to, an information service, system, or access software provider that provides access to a network system commonly known as the Internet, or any comparable system

or service and also includes, but is not limited to, a World Wide Web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other online service. 720 Ill. Comp. Stat. 5/28-2(a-5) (2009).

### **III. State of Anne/ recover of debts**

According to § 720 Ill. Comp. Stat. 5/28-8 (2009). Any person who by gambling shall lose to any other person, any consideration, amounting to the sum of \$50 or more and shall pay or deliver the same or any part, may sue for and recover the consideration, so lost and paid or delivered, in a civil action against the winner, with costs, in the circuit court.

No person who accepts from another person for transmission, and transmits, any order for any transaction to be made upon, any regular board of trade or commercial, commodity or stock exchange, shall, under any circumstances, be deemed a "winner" of any moneys lost by such other person in or through any such transactions. 720 Ill. Comp. Stat. 5/28-8 (2009).

If within 6 months, such person who under the terms of Subsection 28-8(a) [720 Ill. Comp. Stat. 5/28-8] is entitled to initiate action to recover his losses does not in fact pursue his remedy, any person may initiate a civil action against the winner. The court or the jury will determine the amount of the loss. After such determination, the court shall enter a judgment of triple the amount so determined. 720 Ill. Comp. Stat. 5/28-8 (2009).

Any obligation void under the statute prohibiting gambling contracts may be set aside and vacated by any court of competent jurisdiction when a complaint filed for that purpose by the person executing the obligation or by his executors or administrators, his creditors, heirs, legatees, a purchaser or other interested person. A judgment may be set aside by notice and motion. 720 ILCS 5/28-7b, 8a (2009). A contract in aid of the offense of gaming, which is prohibited by statute, is void, and cannot be recovered. *Weiss v. Schachter*, 275 Ill. App. 26 (1935).

### **Gaming Contracts**

Contracts made in aid of gaming or wagering are void. *Shaffner v. Pinchback*, 133 Ill. 410, 24 N.E. 867, (1890); *Cothran v. Ellis*, 125 Ill. 496, 16 N.E. 646 (1988); *Scott v. Baker*, 143 Ill. App. 151 (1909); *Mosher v. Griffen*, 51 Ill. 184 (1869); *Tatman v. Strader*, 23 Ill. 493 (1860).

Gambling contracts or contracts for an immoral or criminal purpose are by reason of public policy, absolutely void and unenforceable. *Hall v. Montaleone*, 38 Ill. App.3d 591, 348 N.E.2d 196 (1976).

### **IV. Lawful commercial casino gaming:**

#### **4. Riverboat Gambling Act**

1. Gambling in Illinois has been largely successful since the passage of the Riverboat Gambling Act. *See* 230 Ill. Comp. Stat. 10/1 et seq. Found at: <http://www.igb.state.il.us/act/>. The Riverboat Gambling Act was passed in February 1990, making Illinois the second state in the nation to legalize riverboat gaming. The Riverboat Gambling Act allows the Gaming Board to grant up to ten casino licenses. *Id.* Riverboat means a self-propelled excursion boat, a permanently moored barge, or permanently moored barges that are permanently fixed together to operate as one vessel, on which lawful gambling is authorized and licensed as provided in this Act. *Id.*

## 2. Illinois Gaming Board

- a. The Riverboat Gambling Act created the Illinois Gaming Board. The five-member Board, administers a regulatory and tax collection system for riverboat casino gambling in Illinois. The Board's staff performs audit, legal, enforcement, investigative and financial analysis activities. The Board shall have jurisdiction over and shall supervise all gambling operations governed by this Act. The Board shall have all powers necessary and proper to fully and effectively execute the provisions of this Act. 720 Ill. Comp. Stat. 5/28-7d (2009).
- b. The Board assures the integrity of riverboat gambling through the regulatory oversight of casino operators, and the licensing of suppliers and employees of riverboat gambling operations. *Id.*
- c. Each riverboat gaming license authorizes up to 1,200 gaming positions (defined by regulation) and allows for the operation of two vessels located at a single specified docksite (which may be permanently moored). *Id.*
- d. The licensed owner of a riverboat gambling operation is not prevented from instituting a cause of action to collect any amount due and owing under an extension of credit to a riverboat gambling patron as authorized under the Riverboat Gambling Act. *Id.*

## 5. **Games that are permitted and prohibited**

. No holder of an Owner's License shall permit any Game to be played other than those approved by the Board. The Administrator shall maintain a list of Board-approved Games and the definitions of those Games. For each Game for which approval of the Board is sought, the holder of an Owner's License shall provide a definition of the Game as well as a set of Game rules to the Administrator 120 days in advance of the Game's proposed operation or within such

time period as the Administrator may designate. *Available at* <http://www.igb.state.il.us/regs/3000.605.pdf>.

a. "Gambling game" includes, but is not limited to, the following:

Baccarat, twenty-one, poker, craps, slot machine, video game of chance, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab which is authorized by the Board as a wagering device under this Act. 230 Ill. Comp. Stat. 10/4 (2009).

## 6. **Limits on age, bet size, payouts, loss limits, etc**

. Age restrictions

Persons must be 21 years of age to be admitted to gambling areas of the casinos. The Act requires that all wagering on casinos be cashless, meaning patrons are required to use tokens, chips or electronic cards for wagering. Recently the Board authorized staff to proceed with ticket in/ ticket out technology as an alternative to current methods of cashless gambling. *Available at* <http://www.igb.state.il.us/whatsnew/egdrulesjune01.pdf>

### Licensee requirements

The holder of an Owner's License shall establish, maintain and update an Internal Control System, the purposes and the procedures of which shall be designed to reasonably insure that: Assets are safeguarded; Financial records are accurate and reliable; Transactions are performed only in accordance with the specific or general authorization of the holder of an Owner's License; Transactions are recorded adequately to permit proper reporting of Adjusted Gross Receipts and of fees and taxes, to maintain accountability for assets, and in conformity with generally accepted accounting principles; Access to assets is permitted only by authorized personnel; Recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; Functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel; Gaming is conducted with integrity; and the Act and rules of the Board are followed. *Available at* <http://www.igb.state.il.us/regs/3000.300.pdf>.

### Specific licensee limitations

An owner's license shall entitle the licensee to own up to 2 riverboats. A licensee shall limit the number of gambling participants to 1,200 for any such owner's license. A licensee may operate both of its riverboats concurrently, provided that the total number of gambling participants on both riverboats does not exceed 1,200. Riverboats licensed to operate on the Mississippi River and the Illinois River south of Marshall County shall have an authorized capacity of at least 500 persons. Any other riverboat licensed under this Act shall have an authorized capacity of at least

400 persons. Riverboat Gambling Act (230 Ill. Comp. Stat. 10 (2009)), *available at* <http://www.igb.state.il.us/act/section7.html>.

### Wagers

Wagers may be made only with Electronic Credits, Tokens or Chips. All Chips, Tokens and Electronic Cards must be approved by the Administrator and purchased from the holder of an Owner's license. Such Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn only in the form of Tokens and/or a Voucher issued from the Electronic Gaming Device. Found at <http://www.igb.state.il.us/regs/3000.600.pdf>.

Riverboat Gaming Wagers may be made with Electronic Credits acquired through the insertion of a Voucher issued by an Electronic Gaming Device authorized for wagering at a holder of an Owner's license, as set forth in the Owner's licensee's Internal Control System. *Available at* <http://www.igb.state.il.us/regs/3000.600.pdf>.

## 7. **Taxes and Fees**

Illinois imposes two taxes on riverboat gaming, a wagering tax and a tax on admissions. The wagering tax is a graduated tax rate up to 50% based on the annual adjusted gross receipts of riverboat casinos.

## 8. **Operational requirements,**

### Hours

A holder of an Owner's license may sell alcoholic beverages or furnish or permit the same to be consumed on the Riverboat between the hours of 9:30 a.m. and 4:00 a.m. each Gaming Day. Any Owner Licensee ending a Gaming Day at or before 4:00 a.m. may sell alcoholic beverages or furnish or permit the same to be consumed on the Riverboat from 9:30 a.m. until one hour prior to that licensee's close of Gaming Operations that Gaming Day. A Gaming Day may begin on one calendar day and end the next calendar day, provided that the Gaming Day does not extend beyond the uniform 24-hour period selected in advance by the licensee. *Available at* <http://www.igb.state.il.us/regs/3000.930.pdf>.

### Gambling age

A person under age 21 shall not be permitted on an area of a riverboat where gambling is being conducted, except for a person at least 18 years of age who is an employee of the riverboat gambling operation. No employee under age 21 shall perform any function involved in gambling by the patrons. No person under age 21 shall be permitted to make a wager under this Act.

Riverboat Gambling Act, (230 Ill. Comp. Stat. 10 (2009)), Available at <http://www.igb.state.il.us/act/section11.html>.

#### Discretionary exclusions

To authorize a licensee to sell or serve alcoholic liquors, wine or beer as defined in the Liquor Control Act of 1934 on board a riverboat and to have exclusive authority to establish the hours for sale and consumption of alcoholic liquor on board a riverboat, notwithstanding any provision of the Liquor Control Act of 1934 or any local ordinance, and regardless of whether the riverboat makes excursions. The establishment of the hours for sale and consumption of alcoholic liquor on board a riverboat is an exclusive power and function of the State. A home rule unit may not establish the hours for sale and consumption of alcoholic liquor on board a riverboat. This amendatory Act of 1991 is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

#### Voluntary exclusions by problem gamblers

The Department of Alcoholism and Substance Abuse must establish a program for public education, research, and training regarding problem and compulsive gambling and the treatment and prevention of problem and compulsive gambling. 20 Ill. Comp. Stat. 301/5-20 (2009).

No Excluded Person is be permitted entry into any portion of a Riverboat Gaming Operation. When a person is placed on the Board Exclusion List by the Administrator, this person is be prohibited from contact of any kind with any Riverboat Gaming Operation in the State of Illinois unless and until a determination is made by the Board or a court to the contrary. It shall be the duty of the holder of the Owner's License and of his employees to exclude or eject from a Riverboat Gaming Operation any Excluded Person when such holder or employee knows or reasonably should know of the presence of such Excluded Person. It shall further be the duty of the holder of the Owner's License to inform the Administrator in writing of the names of persons such holder reasonably believes meet the criteria for placement on an Exclusion List. Available at <http://www.igb.state.il.us/regs/3000.700.pdf>.

In July 2002 the Illinois Gaming Board launched a Statewide Voluntary Self-Exclusion Program for Problem Gamblers that allows persons who have determined they are problem gamblers to self-exclude themselves from all Illinois casinos. Illinois residents seeking information about the Self-Exclusion Program should contact the Illinois Gaming Board at 1-877-YOU-QUIT (1-877-968-7848) or (312) 814-8832. Non-Illinois residents seeking information should call (312) 814-8832. Available at <http://www.igb.state.il.us/selfxclude/Index.htm>.

A person must travel to a designated Illinois Gaming Board Office or sanctioned enrollment site to complete the application forms necessary to Self-Exclude. It will take about 30 to 45 minutes to complete the enrollment process. All Self-Exclusion candidates must bring a valid driver's

license or state issued identification card with them to complete the process. *Available at* <http://www.igb.state.il.us/selfxclude/Index.htm>.

### **Excursion – Riverboat Cruises**

Section 3000.500 Riverboat Cruises provides that Gaming may be conducted while a Riverboat is docked. In the event the holder of an Owner’s license decides to cruise, the Riverboat captain shall decide whether to cancel or disrupt a cruise. *Available at* <http://www.igb.state.il.us/regs/3000.500.pdf>.

For the purpose of orderly ingress of passengers to a Riverboat in the event of a cruise the owner licensee shall schedule the time at which the gangplank or its equivalent shall be raised and further boarding shall not be permitted. *Available at* <http://www.igb.state.il.us/regs/3000.500.pdf>.

For the purpose of orderly egress of passengers from a Riverboat at the end of a cruise, the holder of the Owner’s License shall schedule the time at which the gangplank or its equivalent is lowered. The Board must approve the route any Riverboat takes during a cruise. *Available at* <http://www.igb.state.il.us/regs/3000.500.pdf>.

### **Gambling Crimes and Penalties**

The punishment instituted for a gambling offense should be that authorized by statute. Although the rule that statutes imposing penalties should be strictly construed applies to statutory provisions dealing with the punishment for gambling offenses, the construction must not be so strict as to defeat the intention of the General Assembly. *People v. Brickey*, 75 N.E.2d 534, 332 Ill. App. 370 (1947), *see also* 20 Ill. Law and Prac. Gambling and Lotteries § 57.

#### **0. Gambling place**

The offense of keeping a gambling place includes the following:

Any person who knowingly permits any premises or property owned or occupied by him or under his control to be used as a gambling place commits the offense of keeping a gambling place. The Code further provides that each an offense is a Class 4 felony. 720 Ill. Comp. Stat. 5/28-3 (2009).

The defendant need not be the actual gambler or an otherwise active participant in the gambling activity in order to be found guilty of the offense of keeping a gambling place. *People v. Katsigiannis*, 526 N.E.2d 508, 171 Ill. App. 3d 1090 (1988) *see also*, 20 Ill. Law and Prac. Gambling and Lotteries § 53.

A "gambling place" means

Any real estate, vehicle, boat or any other property whatsoever used for the purposes of gambling other than gambling conducted in the manner authorized by the Riverboat Gambling Act. 720 Ill. Comp. Stat. 5/28-3 (2009).

#### Conviction of gambling place

To support a conviction for keeping a gambling place, the State must prove that the defendant owned, occupied, or controlled the premises; the building was used for the purposes of gambling; and the defendant knowingly permitted that use. *People v. Katsigiannis*, 526 N.E.2d 508, 171 Ill.App.3d 1090 (1988), *see also* 20 Ill. Law and Prac. Gambling and Lotteries § 53.

#### Public nuisance

The keeping of a common gambling house is indictable at common law as a common or public nuisance because it offers great temptation to idleness and tends to draw together disorderly persons to the encouragement of immorality and breaches of the peace. *City of Sterling v. Speroni*, 1949, 84 N.E.2d 667, 336 Ill. App. 590, *see also* 20 Ill. Law and Prac. Gambling and Lotteries § 53.

#### Licensing

Under the Criminal Code of 1961, when any premises is determined by the circuit court to be a gambling place the premises is a public nuisance and all licenses, permits or certificates issued by the State of Illinois are void. In addition and no license, permit or certificate may be reissued for such premises for a period of 60 days; nor shall any be reissued such license for one year from his conviction. 720 Ill. Comp. Stat. 5/28-3 (a-c).

After a second conviction any such person cannot be reissued a license. In addition the premises used as a gambling place maybe sold to pay any unsatisfied judgment that may be recovered and any unsatisfied fine that may be levied. *Id.*

#### Probation

The trial court has the discretion to refuse to place the defendant on probation following his conviction for a gambling offense. *People v. Scheidt*, 492 N.E.2d 248, 142 Ill. App.3d 844 (1986).

### 1. **Unlawful gambling under 720 Ill. Comp. Stat. 5/28-1 (2006)**

- a. Unlawful Gambling as defined under 720 Ill. Comp. Stat. 5/28-1(a)(1) through (11) is a Class A misdemeanor.
- b. A second or subsequent conviction under any of subsections (a)(3) through (a)(11), is a Class 4 felony. *Id.*

1. **Internet gambling**

a. Knowingly establishes, maintains, or operates an Internet site under subsection (a)(12) 720 Ill. Comp. Stat. 5/28-1 is a Class A misdemeanor *Id.*

b. A second or subsequent conviction under subsection (a)(12) is a Class 4 felony. *Id.*

**Syndicated gambling.**

The Criminal Code of 1961 provides that syndicated gambling is a Class 3 felony. 720 Ill. Comp. Stat. 5/28-1.1(f), *see also* 20 Ill. Law and Prac. Gambling and Lotteries § 57.

**Professional gambling related to organized crime**

Because of the close relationship between professional gambling and other organized crime, the declared policy of the legislature is to restrain persons from engaging in the business of gambling for profit in Illinois. Illinois Jurisprudence, Criminal Law § 59:02