

**1602 COMMERCIAL GAMBLING: RECEIVING A BET FOR GAIN — § 945.03(1m)(b)**

**Statutory Definition of the Crime**

Commercial gambling, as defined in § 945.03(1m)(b) of the Criminal Code of Wisconsin, is committed by one who intentionally receives a bet for gain.

**State's Burden of Proof**

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following two elements were present.

**Elements of the Crime That the State Must Prove**

1. The defendant intentionally received a bet.

A bet is an agreement in which one stands to win or lose something of value dependent upon chance, even though accompanied by some skill.<sup>1</sup>

2. The defendant intentionally received a bet for gain.

"Intentionally" requires that the defendant had the mental purpose<sup>2</sup> to receive a bet and to receive that bet for gain.

**Deciding About Intent**

You cannot look into a person's mind to find intent. Intent must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent.

### Jury's Decision

If you are satisfied beyond a reasonable doubt that both elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

### COMMENT

Wis JI-Criminal 1602 was originally published in 1985 and revised in 1995. This revision was approved by the Committee in March 2002 and involved adoption of a new format and nonsubstantive editorial changes.

This instruction is drafted for violations of § 945.03(1m)(b) involving "receiving" a bet. The statute also applies to "recording" or "forwarding" a bet.

1. The definition of "bet" is adapted from the lengthy statutory definition found in § 945.01(1). See note 2, Wis JI-Criminal 1601.

2. The instruction uses the "mental purpose" alternative for the definition of "intentionally." A second alternative is that the defendant be "aware that his or her conduct is practically certain to cause" the result. See § 939.23(3) and Wis JI-Criminal 923.1 and 923.2.