

**1652 POSSESSION OF AN ALTERED LOTTERY TICKET WITH INTENT TO DEFRAUD — § 565.50(3)****Statutory Definition of the Crime**

Section 565.50(3) of the Wisconsin Statutes is violated by one who possesses an altered<sup>1</sup> lottery ticket with intent to defraud.

**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 three elements were present.

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

1. The defendant possessed a lottery ticket.<sup>2</sup>

"Possessed" means that the defendant knowingly had the lottery ticket under his actual physical control.<sup>3</sup>

2. The lottery ticket was altered.<sup>4</sup>

A lottery ticket is altered when it has been changed from the form in which it was originally issued by the State of Wisconsin.<sup>5</sup>

3. The defendant possessed an altered lottery ticket with the intent to defraud.

This requires that the defendant knew the lottery ticket was altered and had the purpose to use it to obtain money (he) (she) was not entitled to receive.<sup>6</sup>

**Deciding About Intent and Knowledge**

You cannot look into a person's mind to find intent and knowledge. Intent and knowledge 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 and knowledge.

### Jury's Decision

If you are satisfied beyond a reasonable doubt that all three 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 1652 was originally published in 1990. This revision was approved by the Committee in October 2008 and involved adoption of a new format and nonsubstantive changes to the text.

This instruction is for a violation of subsection (3) of § 565.50 which provides as follows:

(3) Any person who possesses an altered or forged lottery ticket or share with intent to defraud shall be fined not less than \$10,000 or imprisoned for not more than 9 months or both.

For violations involving altering or forging a lottery ticket under § 565.50(2), see Wis JI Criminal 1650. For violations of § 565.50(2), involving intentionally uttering or transferring an altered or forged lottery ticket, see Wis JI Criminal 1651.

1. The statute refers to possession of "an altered or forged" lottery ticket or share. The instruction uses the broader term "altered" throughout. If there is an intended difference between the two terms, the term "altered" appears to be the broader one.

2. "Lottery ticket" is not defined in the statutes relating to the state lottery. It is defined in the Wisconsin Administrative Code at Chapter Tax 61, § Tax 61.02(3), but that definition is not easily adaptable for use in a standard instruction.

3. See Wis JI-Criminal 920 for a more complete definition of "possess."

4. See note 1, supra.

5. The instruction assumes that the statute applies only to conduct involving the lottery tickets issued by the State of Wisconsin, as opposed to privately produced documents relating to something that might qualify as a "lottery" broadly defined.

6. Lottery prizes are generally in the form of payment of money, though the prize may be a trip or some other type of noncash award. If the prize is for other than money, this definition of "intent to defraud" must be changed to refer, for example, to "something of value." In any event, it is the purpose to obtain something the person is not entitled to receive that the Committee concluded is the essence of "intent to defraud" in the context of this offense.