

Ala. Code 1975, § 13A-12-53

Permitting Gambling Place on Premises

The Defendant is charged with permitting a gambling place on the premises.

A person commits the crime of permitting a gambling place on the premises if he/she, being the owner, proprietor, or keeper, or superintendent of any tavern, inn, restaurant, billiard room, poolroom or other public house, permits or suffers any person or persons on or about the premises to provide a barred or barricaded room or rooms to which persons resort for gaming or who knowingly or willfully permits or knowingly or willfully suffers any person or persons to equip any room or rooms on or about the premises with electric bells, wires or signals, or elevators, dumbwaiters or other implements or appliances connected with such rooms used or to be used for the purpose of communicating with an occupant or occupants of such gambling room or rooms.

To convict, the State must prove beyond a reasonable doubt each one of the following elements:

(1) The defendant (name of defendant) was the owner, proprietor, or keeper, or superintendent of a tavern, inn, restaurant, billiard room, poolroom or other public house;

(2) The defendant **[Read as appropriate]:**

(a) Permitted or suffered a person or persons on or about the premises to provide a barred or barricaded room or rooms to which persons resorted for gaming;

(OR)

(b) Knowingly or willfully permitted or knowingly or willfully suffered a person or persons to equip a room or rooms on or about the premises with electric bells, wires or signals, or elevators, dumbwaiters or other implements or appliances connected with such rooms used or to be used for the purpose of communicating with an occupant or occupants of such gambling room or rooms.

(3) The defendant acted **[Insert appropriate mens rea element – see Use Note]**.

A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

A person acts *willfully* when he/she acts voluntarily. A person acts willfully when the act was committed voluntarily and purposefully with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or disregard the law.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of permitting a gambling place on the premises, then you shall find the defendant guilty of permitting a gambling place on the premises.

If you find that the State has failed to prove beyond a reasonable doubt one or more of the above elements of permitting a gambling place on the premises, then you cannot find the defendant guilty of permitting a gambling place on the premises.

Use Notes

The statute does not state a specific mens rea element. Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly, and with criminal negligence. See 13A-2-2.

1. A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when (his/her) purpose is to cause that result or to engage in the conduct. Ala. Code § 13A-2-2(1).

2. A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense (he/she) is aware that (his/her) conduct is of that nature or that the circumstance exists. Ala. Code § 13A-2-2(2).

3. A person acts recklessly with respect to a result or to a circumstance when (he/ she) is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. Ala. Code § 13A-2-2(3).

4. A person acts with criminal negligence with respect to a result or to a circumstance when (he/she) fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. Ala. Code § 13A-2-2(4).

The presence of electric bells, wires or signals or dumbwaiters or of other implements or appliances that may be used for the purpose of communicating with persons who are occupying a barred or barricaded room on or about the premises of a hotel, restaurant, billiard room, poolroom or any room above the grade floor in the business district of any town or city is prima facie evidence that gaming was being there carried on by such parties in any prosecution against them, if they have the general reputation of being gamblers, and in all such cases, proof of such general reputation is admissible in evidence. (13A-12-58)

[Approved 04/24/26]