

**22.15 [MANUFACTURING] [OWNING] [STORING] [KEEPING] [POSSESSION OF]
[PERMITTING THE OPERATION OF] [SELLING] [LEASING] [TRANSPORTING] A
SLOT MACHINE**

§ 849.15(1)(a) and (b), Fla. Stat.

To prove the crime of (crime charged), the State must prove the following element beyond a reasonable doubt:

Give as applicable.

(Defendant)

- a. [manufactured] [owned] [stored] [kept] [possessed][sold] [leased] [let on shares] [lent] [gave away] [transported] [exposed for sale or lease] any slot machine or device [or any part of a slot machine or device].
- b. offered to [sell] [rent] [lease] [let on shares] [lend] [give away] any slot machine or device [or any part of a slot machine or device].
- c. permitted the operation of any slot machine or device [or any part of a slot machine or device].
- d. permitted any slot machine or device [or any part of a slot machine or device] to be [placed] [maintained] [used] [kept] in a [room] [space] [building] owned, leased, or occupied by [him][her] or under [his] [her] management or control.
- e. [or permitted to be made] an agreement with another, pursuant to which the user of any slot machine or device, may become entitled to receive [money] [credit] [allowance] [a thing of value] [an additional chance or right to use the slot machine or device] [any [check] [slug] [token] [memorandum] entitling the holder to receive [money] [credit] [allowance] [or] [thing of value]].

§ 849.16, Fla. Stat.

A “slot machine or device” is a machine or device or system or network of devices that is adapted for use in such a way that, upon activation, which may be achieved by, but is not limited to, the insertion of any piece of money, coin, account number, code, or other object or information, such device or system is directly or indirectly caused to operate or may be operated and if the user, whether by application of skill or by reason of any element of chance or of any other outcome unpredictable by the user, may:

- a) receive or become entitled to receive any piece of money, credit, allowance, or thing of value; or
- b) receive or become entitled to receive any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or
- c) secure additional chances or rights to use such machine, apparatus, or device, even

though the device or system may be available for free play, or, in addition to any element of chance or unpredictable outcome of such operation, may also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

Give if applicable. §§ 849.16(1)(b), 551.102(8), Fla. Stats.

A “slot machine” includes, but is not limited to, devices regulated as slot machines under chapter 551 of Florida Statutes. Under chapter 551, a “slot machine” means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. [A slot machine is not a “coin-operated amusement machine” as defined in § 212.02(24), Fla. Stat. or an amusement game or machine as described in § 546.10, Fla. Stat.] *Instruct on § 212.02(24), Fla. Stat. or § 546.10, Fla. Stat. as applicable.*

Give if applicable. § 849.094(8)(b), Fla. Stat.

Compliance with the rules of the Department of Agriculture and Consumer Services is not a defense to a charge of Possession of a Slot Machine or Device.

Give if applicable. § 849.16(3), Fla. Stat.

You are permitted to infer that a device, system, or network is a prohibited slot machine or device if it is used to display images of games of chance and is part of a scheme involving any payment or donation of money or its equivalent and awarding anything of value.

Possession.

To prove (defendant) possessed a slot machine or device, [or any part of a slot machine or device,] the State must prove beyond a reasonable doubt that [he] [she] a) knew of the existence of the slot machine or device [or any part of a slot machine or device]; and b) intentionally exercised control over that slot machine or device [or any part of a slot machine or device].

Give if applicable.

Control can be exercised over a slot machine or device, [or any part of a slot machine or device,] whether it is carried on a person, near a person, or in a completely separate location. Mere proximity to a slot machine or device [or any part of a slot machine or device] does not establish that the person intentionally exercised control over it in the absence of additional evidence. Control can be established by proof that (defendant) had direct personal power to control the slot machine or device [or any part of a slot machine or device] or the present ability to direct its control by another.

Joint possession. Give if applicable.

Possession of a slot machine or device [or any part of a slot machine or device] may be sole or joint, that is, two or more persons may possess a slot machine or device [or any part of a slot machine or device].

Lesser Included Offenses

**[POSSESSION] [PERMITTING THE OPERATION] OF A SLOT MACHINE — 849.15(1)(a) and
(b)**

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comments

It is not necessary for the State to prove that the slot machine or device was used for gambling. *See Eccles v. Stone*, 183 So. 628 (Fla. 1938); *Dept. of Business Regulation v. Rains*, 477 So. 2d 1029 (Fla. 2d DCA 1985).

It is a defense to Possession of a Slot Machine if the device is an antique slot machine and is not being used for gambling. An antique slot machine is one which was manufactured at least 20 years prior to the prosecution. *See* § 849.235, Fla. Stat.

This instruction was adopted in 2013 [122 So. 3d 302] and amended in 2014 [148 So. 3d 1204] and 2018.