

UNLAWFUL [PROMOTION] [OPERATION] [CONDUCTING] OF A SERVER-BASED ELECTRONIC GAME PROMOTION—G.S. §14-306.3(A). FELONY. MISDEMEANOR.

NOTE WELL: The first violation of this section is a misdemeanor. Subsequent offenses are punishable as felonies.

The defendant has been charged with [promoting] [operating] [conducting] a server-based electronic game promotion¹.

For you to find the defendant guilty of this offense, the State must prove (two things) beyond a reasonable doubt:

(First) that the defendant [promoted] [operated] [conducted] a server-based electronic game promotion.

NOTE WELL: For a first conviction under this section, the defendant shall be guilty of a Class 1 misdemeanor. A second offense will be punished as a Class H felony. A third or subsequent offense will be punished as a Class G felony. See G.S. 14-309(a).

If there is evidence to support a charge on a previous conviction and the defendant denies a previous conviction or remains silent, then this instruction should be amended to add the second element that follows. If the defendant admits the previous convictions, this element would not be added. In such case, a transcript of plea is required for the admission of these convictions. See G.S. 15A-928 for provisions regarding indictment, bifurcated trial, verdict and judgment. The mandate should be amended in keeping with this addition.

(And Second, that at the time the defendant [promoted] [operated] [conducted] a server-based electronic game promotion, the defendant had been convicted of the following [one] [two or more] offense(s):

(1) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of [promoting] [operating] [conducting] a server-based electronic game promotion, that was committed on (name date); and

1. "As used in this section, 'server-based electronic game promotion' means a system that meets all of the following criteria:

(1) A database contains a pool of entries with each entry associated with a prize value.
(2) Participants purchase, or otherwise obtain by any means, a prepaid card.
(3) With each prepaid card purchased or obtained, the participant also obtains one or more entries.
(4) Entries may be revealed in any of the following ways:
a. At a point-of-sale terminal at the time of purchase or later.
b. At a game terminal with a display that simulates a game ordinarily played on a slot machine regulated under G.S. 14-306 or a video gaming machine regulated under G.S. 14-306.1A." G.S. 14-306.3(c).

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((2) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of [promoting] [operating] [conducting] a server-based electronic game promotion, that was committed on (name date);) (and)

((3) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of [promoting] [operating] [conducting] a server-based electronic game promotion, that was committed on (name date).))

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant [promoted] [operated] [conducted] a server-based electronic game promotion (and that at the time the defendant [promoted] [operated] [conducted] a server-based electronic game promotion, the defendant had been convicted of the following [one] [two or more] offense(s):

(1) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of [promoting] [operating] [conducting] a server-based electronic game promotion, that was committed on (name date); and

((2) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of [promoting] [operating] [conducting] a server-based electronic game promotion, that was committed on (name date);) (and)

((3) On (name date), the defendant in (name court) [was convicted of] [plead guilty to] the offense of [promoting] [operating] [conducting] a server-based electronic game promotion, that was committed on (name date).)),

it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to [this] [one or both of these] thing(s), it would be your duty to return a verdict of not guilty.