

SPORTS BRIBE RECEIVING
(E Felony)
(Sports Participant)
Penal Law 180.45(1)
(Committed on or after Aug. 27, 1982)

The _____ count is Sports Bribe Receiving.

Under our law a person is guilty of Sports Bribe Receiving when, being a sports participant, he or she solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he or she will thereby be influenced not to give his or her best efforts in a sports contest.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "sports participant," "benefit," "agreement," "understanding" and "sports contest."

SPORTS PARTICIPANT means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.¹

BENEFIT means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.²

AGREEMENT means mutual agreement between a sports participant and a person from whom he or she solicits, accepts or agrees to accept any benefit, that such sports participant will thereby be influenced not to give his or her best efforts in a sports

¹Penal Law §180.35(2).

² Penal Law §10.00(17). See *People v Feerick*, 93 N..Y.2d 433, 446-447 (1999).

contest.³

UNDERSTANDING means at least a unilateral perception or belief by a sports participant who solicits, accepts or agrees to accept any benefit from another person, that such benefit will influence the sports participant not to give his or her best efforts in a sports contest.⁴

SPORTS CONTEST means any professional or amateur sport or athletic game or contest viewed by the public.⁵

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (date), the defendant, (defendant's name), was a sports participant;
2. That on or about that date, in the county of (county), the defendant solicited, accepted or agreed to accept a benefit from (specify); and
3. That the defendant did so upon an agreement or understanding that he/she would thereby be influenced not to give his/her best efforts in a sports contest.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the

³ The definition has been drawn from *People v Tran*, 80 N.Y.2d 170 (1992), which defined the term “understanding” in the context of a bribe giving rather than a bribe receiving case. The Court of Appeals has not specifically adopted a definition of the term “understanding” in the context of a bribe receiving case.

⁴ See footnote 3.

⁵ Penal Law §180.35(1).

defendant guilty of the crime of Sports Bribe Receiving as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Sports Bribe Receiving as charged in the _____ count.