



**STATE OF ARIZONA**

**OFFICE OF THE ATTORNEY GENERAL**

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| <p>ATTORNEY GENERAL OPINION</p> <p>By</p> <p>MARK BRNOVICH<br/>ATTORNEY GENERAL</p> <p>July 16, 2015</p> | <p>No. I15-006<br/>(R15-007)</p> <p>Re: May more than one non-profit organization be the "sponsoring organization" for a common raffle pursuant to section 13-3302(B)....</p> |
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To: Senator Steve Farley  
Arizona State Senate

**Questions Presented**

You have asked whether more than one nonprofit organization may be the “sponsoring organization” for a common raffle pursuant to Arizona Revised Statutes Section 13-3302(B)?

**Summary Answer**

Yes. More than one nonprofit organization may be the “sponsoring organization” for a common raffle under section 13-3302(B), provided that each organization independently meets the exclusion requirements.

**Background**

Gambling is generally illegal in Arizona. *See* A.R.S. § 13-3303 (Promotion of gambling), § 13-3304 (Benefitting from gambling). The Arizona Legislature has identified particular conduct that is excluded from the general prohibition. A.R.S. § 13-3302 (Exclusions);

see also Ariz. Atty Gen. Op. I90-035 (1990). Of relevance to this opinion, section 13-3302(B) permits certain organizations to conduct a raffle, which would otherwise constitute unlawful gambling, under specific conditions:

**B.** An organization that has qualified for an exemption from taxation of income under § 43-1201, subsection A, paragraph 1, 2, 4, 5, 6, 7, 10 or 11 may conduct a raffle that is subject to the following restrictions:

1. The nonprofit organization shall maintain this status and no member, director, officer, employee or agent of the nonprofit organization may receive any direct or indirect pecuniary benefit other than being able to participate in the raffle on a basis equal to all other participants.
2. The nonprofit organization has been in existence continuously in this state for a five year period immediately before conducting the raffle.
3. No person except a bona fide local member of the sponsoring organization may participate directly or indirectly in the management, sales or operation of the raffle.

A.R.S. § 13-3302. The remainder of subsection B sets forth further specified exclusions relating generally to hospitals and certain non-profits engaged in child abuse prevention and related advocacy; entities meeting these criteria are permitted to contract with an outside agent for purposes of a raffle. A.R.S. § 13-3302(B)(4).

### Analysis

Because no court has addressed this issue, it is a basic question of statutory interpretation to determine the scope of the gambling exclusion under section 13-3302(B). “Our task in interpreting the meaning of a statute is to fulfill the intent of the legislature that wrote it.” *State v. Williams*, 175 Ariz. 98, 100 (1993). “In determining the legislature's intent, we initially look to the language of the statute itself.” *Bilke v. State*, 206 Ariz. 462, 464 ¶ 11 (2003). If the statute's language is clear, we apply it “unless application of the plain meaning would lead to impossible

or absurd results.” *Id.* “The general rule that a penal statute is to be strictly construed does not apply to [Title 13], but the provisions herein must be construed according to the fair meaning of their terms to promote justice and effect the objects of the law, including the purposes stated in section 13-101.” A.R.S. § 13-104.

Section 13-3302(B)(3) requires that only a “bona fide local member” of a sponsoring organization participate directly in a permitted raffle. This language does not explicitly prohibit two organizations from coming together to offer a raffle, but it could be read restrictively to imply such a prohibition given that a joint raffle would likely involve the participation of individuals who are not “bona fide local member[s]” of both organizations. Such a restrictive reading means two organizations that could legally conduct raffles independently would be guilty of illegal gambling when they do so collaboratively. Nothing in the statutory language indicates that our Legislature intended such an arbitrary result.<sup>1</sup> Moreover, A.R.S. § 13-104 specifically forbids such a strict construction because such an interpretation would not “promote justice and effectuate the objects of the law,” A.R.S. § 13-104, or otherwise serve the purposes of Title 13 set forth in section 13-101.

As noted previously, the statute is silent as to the question presented. Statutory silence cannot be invoked as an indication of legislative intent. *See, e.g., Sell v. Gama*, 231 Ariz. 323, 328 ¶ 21 (2013) (“we find it not plausible to interpret the statutory silence as tantamount to an implicit [legislative] intent.”) (internal quotation marks omitted, alterations in original). This silence may be resolved by looking to “the context of the [legislation], the language used, the subject matter, the historical background, the effects and consequences, and the spirit and

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<sup>1</sup> While legislative history is not relevant here (and in general is not a reliable source of authority), it is also instructive to note that the legislative history of section 13-3302(B) is devoid of any concern regarding such collaborative raffles.

purpose of the law. *Martin v. Martin*, 156 Ariz. 452, 457 (1988). Here, by creating the non-profit exception to the general prohibition on raffles, the Legislature expressed its concern with preserving a critical fundraising source for organizations that serve the public. By restricting “management, sales or operation” of the raffle to members of the sponsoring organization, and by strictly defining those organizations which can sponsor raffles, the Legislature codified its intent that raffles be conducted with integrity and inure to the benefit of the organization. There is no statutory language that indicates a concern with otherwise qualified organizations conducting a joint raffle. Accordingly, the intent, purpose, and fair meaning of the statute is clearly served and best effectuated if organizations that are independently qualified under § 13-3302(B) may cooperate in their objective to serve the public interest.<sup>2</sup>

### **Conclusion**

More than one organization may serve as the “sponsoring organization” for a raffle under section 13-3302(B), so long as each sponsoring organization is independently qualified to conduct such a raffle under the statute.

Mark Brnovich  
Attorney General

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<sup>2</sup> Nothing in this opinion should be read to suggest that an organization may gain a right or privilege it would not otherwise be entitled to by collaborating with another organization. This extends to the requirements in sections 13-3302(B)(1) and (3), that raffles be conducted by members of qualified organizations and that proceeds from the events redound to the benefit of the sponsoring organizations (e.g., an organization that is excepted from sections 13-3302(B)(1) and (3) cannot gain the advantage of the exception in section 13-3302(B)(4)).