

CHAPTER 33

GAMBLING

13-3301. Definitions

In this chapter, unless the context otherwise requires:

1. "Amusement gambling" means gambling involving a device, game or contest which is played for entertainment if all of the following apply:
 - (a) The player or players actively participate in the game or contest or with the device.
 - (b) The outcome is not in the control to any material degree of any person other than the player or players.
 - (c) The prizes are not offered as a lure to separate the player or players from their money.
 - (d) Any of the following:
 - (i) No benefit is given to the player or players other than an immediate and unrecorded right to replay which is not exchangeable for value.
 - (ii) The gambling is an athletic event and no person other than the player or players derives a profit or chance of a profit from the money paid to gamble by the player or players.
 - (iii) The gambling is an intellectual contest or event, the money paid to gamble is part of an established purchase price for a product, no increment has been added to the price in connection with the gambling event and no drawing or lottery is held to determine the winner or winners.
 - (iv) Skill and not chance is clearly the predominant factor in the game and the odds of winning the game based upon chance cannot be altered, provided the game complies with any licensing or regulatory requirements by the jurisdiction in which it is operated, no benefit for a single win is given to the player or players other than a merchandise prize which has a wholesale fair market value of less than four dollars or coupons which are redeemable only at the place of play and only for a merchandise prize which has a fair market value of less than four dollars and, regardless of the number of wins, no aggregate of coupons may be redeemed for a merchandise prize with a wholesale fair market value of greater than thirty-five dollars.
2. "Crane game" means an amusement machine which is operated by player controlled buttons, control sticks or other means, or a combination of the buttons or controls, which is activated by coin insertion into the machine and where the player attempts to successfully retrieve prizes with a mechanical or electro mechanical claw or device by positioning the claw or device over a prize.
3. "Gambling" or "gamble" means one act of risking or giving something of value for the opportunity

to obtain a benefit from a game or contest of chance or skill or a future contingent event but does not include bona fide business transactions which are valid under the law of contracts including contracts for the purchase or sale at a future date of securities or commodities, contracts of indemnity or guarantee and life, health or accident insurance. Gambling is conducted "as a business" when it is engaged in with the object of gain, benefit or advantage, either direct or indirect, realized or unrealized, but not when incidental to a bona fide social relationship.

4. "Player" means a natural person who participates in gambling.
5. "Regulated gambling" means gambling to which all of the following apply:
 - (a) It is operated and controlled in accordance with a statute, rule or order of this state or of the United States.
 - (b) All federal, state or local taxes, fees and charges in lieu of taxes have been paid by the authorized person or entity on any activity arising out of or in connection with the gambling.
 - (c) If conducted by an organization which is exempt from taxation of income under section 43-1201, the organization's records are open to public inspection.
6. "Social gambling" means gambling which is not conducted as a business and involves players who compete on equal terms with each other in a gamble if all of the following apply:
 - (a) No player receives, or becomes entitled to receive, any benefit, directly or indirectly, other than his winnings from the gamble.
 - (b) No other person receives, or becomes entitled to receive any benefit, directly or indirectly, from the gambling activity including without limitation, benefits of proprietorship, management or unequal advantage or odds in a series of gambles.
 - (c) None of the players are below the age of majority.
 - (d) Players "compete on equal terms with each other in a gamble" when no player enjoys an advantage over any other player in the gamble under the conditions or rules of the game or contest.

13-3302. Exclusions

- A. The following conduct is not unlawful under this chapter:
 1. Amusement gambling.
 2. Social gambling.
 3. Regulated gambling if the gambling is conducted in accordance with the statutes, rules or orders governing the gambling.
 4. Gambling conducted at state, county or district fairs, which complies with the provisions of section 13-3301, paragraph 1, subdivision (d).

- B. An organization which has qualified for an exemption from taxation of income under section 43-1201, 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.
- C. A state, county or local historical society designated by this state or a county, city or town to conduct a raffle may conduct the raffle subject to the following conditions:
1. No member, director, officer, employee or agent of the historical society 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 historical society must have 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 historical society may participate directly or indirectly in the management, sales or operation of the raffle.
- 13-3311. Amusement gambling intellectual contests or events; registration; filing of rules; sworn statement; public inspection of records
- A. Before any person conducts an amusement gambling intellectual contest or event pursuant to section 13-3301, paragraph 1, subdivision (d), item (iii), such persons shall register with the attorney general's office. The registration shall include:
1. The name and address of the person conducting the contest or event.
 2. The minimum dollar amount of all prizes to be awarded.
 3. The duration of the event.
 4. The statutory agent or person authorized to accept service of process in Arizona for the person conducting the contest or event.
 5. All rules governing the contest or event, including the rules applicable in case of a tie.

6. The name and description of the product and the established purchase price for the product.
- B. Within ten days following the award of all prizes in connection with an amusement gambling intellectual contest or event, the person conducting the contest or event shall file with the attorney general's office the names and addresses of all persons who have won prizes in connection with the contest or event.
- C. For each amusement gambling intellectual contest or event held, the person conducting the event shall file with the attorney general's office a sworn statement under oath that no increment has been added to the established purchase price for the product in connection with the gambling event.

43-1201. Organizations exempt from tax

Organizations that are exempt from federal income tax under section 501 of the internal revenue code are exempt from the tax imposed under this title. In addition, the following organizations are exempt from the taxes imposed under this title, except as otherwise provided in this chapter:

1. Labor, agricultural or horticultural organizations, other than cooperative organizations.
2. Fraternal beneficiary societies, orders or organizations both:
 - (a) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system.
 - (b) Providing for the payment of life, sick, accident or other benefits to the members of such society, order or organization or their dependents.
3. Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit or any corporation chartered for burial purposes and not permitted by its charter to engage in any business not necessarily related to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual member thereof.
4. Corporations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.
5. Business leagues, chambers of commerce, real estate boards or boards of trade, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.
6. Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare or local organizations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, the net earnings of which are devoted exclusively to charitable, educational or recreational

purposes.

7. Clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.
8. Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom and turning over the entire amount of such income, less expenses, to an organization which itself is exempt from the tax imposed by this title.
9. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organizations or their dependents, if both of the following apply:
 - (a) No part of their net earnings inures, other than through such payments, to the benefit of any private shareholder or individual.
 - (b) Eighty-five per cent or more of the income consists of amounts collected from members and amounts contributed to the organization by the employer of the members for the sole purpose of making such payments and meeting expenses.
10. Teachers' or public employees' retirement fund organizations of a purely local character, if both of the following apply:
 - (a) No part of their net earnings inures to the benefit of any private shareholder or individual, other than through payment of retirement benefits.
 - (b) The income consists solely of amounts received from public taxation, amounts received from assessments upon the salaries of members and income in respect of investments. For the purposes of this paragraph, "public employees" means employees of the state and its political subdivisions.
11. Religious or apostolic organizations or corporations, if such organizations or corporations have a common treasury or community treasury, even if such corporations or organizations engage in business for the common benefit of the members, but only if the members thereof include, at the time of filing their returns, in their Arizona gross income their pro rata shares, whether distributed or not, of the net income of the organizations or corporations for such year. Any amount so included in the Arizona gross income of a member shall be treated as a dividend received.
12. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organization, their dependents or their designated beneficiaries, if both of the following apply:
 - (a) Admission to membership in such organization is limited to individuals who are officers or employees of the United States government.
 - (b) No part of the net earnings of such organization inures, other than through such

payments, to the benefit of any private shareholder or individual.

13. Corporations classified as diversified management companies under section 5 of the federal investment company act of 1940 and registered as provided in that act.
14. Insurance companies paying to the state tax upon premium income derived from sources within this state.
15. Mutual ditch, irrigation or water companies or similar nonprofit organizations if eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.
16. Workers' compensation pools established pursuant to section 23-961.01.