

## **All Gambling is Illegal Unless Specifically Excluded from Illegality.**

Gambling is defined in Arizona Revised Statutes ("A.R.S.") § 13-3301(4) to require risking something of value for an opportunity to win a benefit, which is awarded by chance. As provided by A.R.S. § 13-3302, all gambling is illegal in Arizona unless a statute excludes it as legal. Charitable organizations may qualify for an exclusion from illegal gambling by being licensed under A.R.S. § 5-504(I) for Arizona Lottery pull tab games, A.R.S. § 5-512 for all products of the Arizona Lottery, or by qualifying as a non profit for the conduct of raffles under A.R.S. § 13-3302(B).

The statutes limit unlicensed charitable organizations to conducting raffles. All other forms of gambling are prohibited. Arizona statutes provide no definition of raffle, and no Arizona court has defined raffle.

A raffle machine is required to follow the usual and ordinary definition of a raffle with the only difference being that it is played on a machine to qualify as a raffle machine. A second chance raffle drawing conducted after the conduct of Keno on a machine does not change the character of the Keno to a raffle. Each component must be authorized by law or it is illegal gambling.

### **Arizona Liquor Law - A.R.S. §4-244. Unlawful acts**

It is unlawful:

26. For a licensee or employee to knowingly permit unlawful gambling on the premises.

Arizona liquor law does not allow gambling at liquor-licensed businesses when the customer is required to pay for a chance to win something of value.

Amusement gaming, which includes all of the criteria stated in A.R.S. §13-3301.1(a) – (d), requires that no cover charge or involvement by licensed location or staff of licensed location is permissible, and the game must be a game of skill.

For example, a football pool can be played by customers of a licensed location if there is no cover charge to get in and the staff of the location have no involvement in the pool. Another example would be a pool game which can be played and bets placed between the players. No side bets can be placed, nor can a cover charge be required by the licensed location.

## IS YOUR RAFFLE LEGAL?

Method of legal raffle play:	Method of other illegal play:	Method of play on prohibited devices:
<ul style="list-style-type: none"> <li>Your charitable organization is selling tickets for a drawing.</li> </ul>	<ul style="list-style-type: none"> <li>Your organization is selling pre-packaged units of tickets that determine winners and losers without a drawing. These tickets are purchased from someone other than the Arizona Lottery.</li> </ul>	<ul style="list-style-type: none"> <li>Player pays the bartender for credits on a machine, or makes a monetary charitable donation to a machine, that provides credits for play on a different machine.</li> </ul>
<ul style="list-style-type: none"> <li>Players purchase tickets, each displaying a unique number.</li> </ul>		<ul style="list-style-type: none"> <li>Keno boards appear on screen of the machine, the player selects numbers and a random number generator determines which boards will win.</li> </ul>
<ul style="list-style-type: none"> <li>Drawing does not take place until after the close of all sales.</li> <li>The drawing must take place even if all tickets are not sold.</li> <li>A drawing takes place, with the winning number(s) selected from the numbers of the tickets that were sold.</li> </ul>	<ul style="list-style-type: none"> <li>Whether a ticket is a winner can be determined without a drawing.</li> <li>Prizes are awarded whether or not all tickets are sold.</li> <li>No drawing takes place, or only a second-chance drawing of non-winning tickets takes place.</li> </ul>	<ul style="list-style-type: none"> <li>No drawing takes place. If player exhausts all credits, may sign back of credit voucher as 2nd-chance drawing entry</li> </ul>
<ul style="list-style-type: none"> <li>The drawing must determine who wins the announced prizes.</li> <li>Prizes are not awarded until a drawing takes place.</li> </ul>	<ul style="list-style-type: none"> <li>Each pre-packaged unit of tickets contains a fixed number of winning and non-winning tickets with predetermined prize values.</li> <li>Prizes are determined by breaking open the ticket and matching the number to the pre-selected numbers on the game (flare) card.</li> <li>Your organization pays</li> </ul>	<ul style="list-style-type: none"> <li>After each play, or series of play, on the machine by an individual player, the random number generator determines the winning prizes.</li> </ul>

Method of legal raffle play:	Method of other illegal play:	Method of play on prohibited devices:
<ul style="list-style-type: none"> <li>All prizes announced prior to the sale of the raffle must be awarded.</li> </ul>	prizes on winning tickets before a drawing occurs. <ul style="list-style-type: none"> <li>If the unit of tickets is not completely sold, remaining prizes on unsold tickets are not paid.</li> </ul>	

When consideration is paid, it is a legal requirement that an electronic raffle machine conform to all requirements of a raffle game in order to be an electronic raffle machine. It cannot combine other games with the raffle play. When consideration is paid, to play a gambling device that has other games of chance, such as Keno, with a second chance drawing for a game of raffle, then the gambling device is not a legal raffle machine.

### **Criminal Offences for Illegal Gambling**

**Illegal gambling criminal violations include:**

A.R.S. § 13-3303. Promotion of gambling; classification.

A. Except for amusement, regulated or social gambling, a person commits promotion of gambling if he knowingly does either of the following for a benefit:

1. Conducts, organizes, manages, directs, supervises or finances gambling.
2. Furnishes advice or assistance for the conduct, organization, management, direction, supervision or financing of gambling.

B. Promotion of gambling is a class 5 felony.<sup>1</sup>

A.R.S. § 13-3304. Benefiting from gambling; classification

A. Except for amusement or regulated gambling, a person commits benefiting from gambling if he knowingly obtains any benefit from gambling.

B. Benefiting from social gambling as a player is not unlawful under this section.

C. Benefiting from gambling is a class 1 misdemeanor.

A.R.S. § 13-3306. Possession of a gambling device; classification

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<sup>1</sup> Promotion of gambling has been held to occur when a person other than a player engages in conduct that materially aids illegal gambling. The relevant information needed to make the determination is the acts that organize, manage, direct, supervise or finance the gambling. In this case, the nonprofit premise activities are apparent, the vendor's activities that meet this crime, among others, are the financing of the gambling since supplies are not paid, but instead, the vendor profits from the gambling by taking his percentage from the gambling.

- A. A person commits possession of a gambling device if the person knowingly possesses, distributes or transports any implement, machine, paraphernalia, equipment or other thing that the person knows or has reason to know is used or intended to be used in violation of this chapter.
- B. A person commits possession of a bingo gambling device if the person knowingly possesses any implement, machine, paraphernalia, equipment or other thing that the person knows or has reason to know is used or intended to be used in violation of this chapter.
- C. Possession of a bingo gambling device shall not be the basis for a violation of section 13-3303, 13-3304 or 13-3307.
- D. Possession of a bingo gambling device is a class 2 misdemeanor. Possession of any other gambling device is a class 1 misdemeanor.
- E. Nothing in this section prohibits:
  - 1. The use of gambling devices by nonprofit or charitable organizations pursuant to section 13-3302, subsection B.
  - 2. Possession, distribution or transportation of gambling devices for purposes not prohibited by this chapter.

**The right to seize evidence by a peace officer upon probable cause:**

- A.R.S. § 13-3309. Seizure; exception; definition
- A. In addition to any other remedies provided by law, any monies used or intended to be used in violation of this chapter may be seized by any peace officer on probable cause that it is money used or intended to be used in violation of this chapter.
  - B. In addition to any other remedy provided by law, gambling records of gambling in violation of this chapter may be seized by any peace officer on probable cause that they are gambling records.
  - C. In addition to any other remedy provided by law, a gambling device may be seized by any peace officer on probable cause that it is a gambling device being used or intended to be used in violation of this title.
  - D. If a gambling device is an antique slot machine and is not used for gambling purposes or in violation of the laws of this state, possession of the antique slot machine is lawful and it shall not be confiscated or destroyed. If the gambling device is confiscated and the owner shows that the gambling device is an antique slot machine and it is not used for gambling purposes or in violation of the laws of this state, the court acquiring jurisdiction shall order the antique slot machine returned to the person from whom it was confiscated.
  - E. For purposes of this section, "antique slot machine" means a gambling device which is manufactured for use as a slot machine and is at least twenty-five years old.

**Forfeiture:**

- A.R.S. § 13-3310. Forfeiture
- A. In addition to any other remedies provided by law, the following property shall be forfeited pursuant to section 13-2314 or chapter 39 of this title:

1. All benefits derived from a violation of this chapter.
  2. All unlawful gambling devices.
  3. All things of value used or intended to be used to facilitate a violation of this chapter.
- B. A person that obtains property through a violation of this chapter is an involuntary trustee. An involuntary trustee and any other person, except a bona fide purchaser for value without notice of the unlawful conduct and who has not knowingly taken part in an illegal transaction, holds the property, its proceeds and its fruits in constructive trust for the benefit of persons entitled to remedies pursuant to section 13-2314 or chapter 39 of this title.

For more information about gaming laws, contact the Arizona Department of Gaming at 602-771-4263.