

ARIZONA

I. Definition of Gambling

The following terms are defined under Arizona statute § 13-3301(1)-(7) (2009):

1. "Gambling or gamble" means: *Id.* at (4).

"[O]ne 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"

The statute above, seems to make no distinction between games of chance or skill. Therefore, gambling in Arizona is unlawful regardless of chance or skill.

Although, in *Boies v. Bartell*, 82 Ariz. 217, 310 P.2d 834 (1957), the court found that there are two main components to gambling: (1) giving consideration; (2) for the chance to win a prize. They found that what made gambling unlawful in Arizona at that time was the predominance of chance over skill. *See Id.* (stating that crane machines were unlawful gambling devices because chance predominated over skill). However, Ariz. Stat. Ann. § 13-3301 (2009) was adopted after *Boies*.?Therefore, this statute supersedes the gambling test adopted by the court in *Boies*.

Worth noting, in *Boies v. Bartell*, 82 Ariz. 217, 310 P.2d 834 (1957), a "game of chance" was defined as a contest where chance predominates over skill. The definition of this term was further defined in *Engle v. State*, 53 Ariz. 458, 900 P.2d 988 (1939), where the court determined that "game of chance" means any sport or amusement performed by a person or an animal that is determined primarily by chance and where skill has no bearing or is overcome by chance. It is the character of the game and not the skill of the player that determines whether a game is of chance or skill. *Id.*

2. "Crane game" means: Ariz. Rev. Stat. § 13-3301(3) (2009)

"[A]n 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 electromechanical claw or device by positioning the claw or device over a prize."

"Coin-operated crane machines, the object of the operation of which by player was to pick up metal figurines with boom and claw apparatus from bed of candy, in order to win a prize, were unlawful 'gambling devices' because elements of chance clearly predominated over skill insofar as the average person or general public is concerned."? *Boies v. Bartell*, 82 Ariz. 217, 310 P.2d 834 (1957).

3. "Player" means: A natural person who participates in gambling. Ariz. Rev. Stat. § 13-3301(5) (2009)

4. "Regulated gambling" means either: *Id.* at (6).

- a. "Gambling conducted in accordance with a tribal-state gaming compact" or,
- b. Gambling to which all of the following apply:
 - i. It is operated and controlled in accordance with a statute, rule or order of this state or of the US
 - ii. All taxes have been paid in connection with the gambling
 - 1. An organization who is exempt from taxation has records open to public inspection
 - 2. None of the players is under 21

Ariz. Rev. Stat. § 13-3302(3) (2009) informs us that regulated gambling is not prohibited if it is conducted in accordance with the statutes, rules or orders governing the gambling. Thus the only gambling that is lawful is that authorized by law.

5. "Amusement gambling" means: Ariz. Rev. Stat. § 13-3301(1) (2009)

"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 unrecorded right to replay which is not exchangeable for value.

A violation of the State's criminal gambling laws occurs when a device or game offers a prize based on the player's score. However, the laws are not violated if instead of a prize, the player receives an immediate and unrecorded right to replay or if the prize has nothing to do with the score of the game, but the number of times the game is played. Op. Atty. Gen. No. I87-101.

- 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 (4) 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 (4) 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 (35) dollars.

Note: This mirrors what has been referred to as Chucky Cheese gambling

Arizona statute § 13-3302(1) (2009) states that amusement gambling is not prohibited. Ariz. Rev. Stat. § 13-3302(4) (2009) excludes gambling that is conducted at state, county or district fairs and complies with part (d) of this paragraph. Arizona statute § 13-3311(A) requires any person conducting amusement gambling event to register with the attorney general's office.

Sports pools, fantasy football, and card and dice games involving a wager are gambling and, when conducted on a liquor-licensed premises. They are not eligible for either the amusement, regulated, or social gambling exclusions. ***Games of skill, such as pool, darts, and intellectual and video games, may be legally permissible if they strictly meet all of the required elements of the amusement gambling exclusion.*** Op. Atty. Gen. No. I98-002.

The phrase in the statute that says that amusement gambling requires that the outcome of game not be "the control to any material degree of any person other than the player or players" requires that the outcome of the device, game, or contest is not in the control of any non-player to such degree that the non-player could have influence over the game. *State v. Takacs*, 169 Ariz. 392, 819 P.2d 978 (1991).

II. Definition of Bookmaking

1. In *State v. Duci*, 151 Ariz. 263, 727 P.2d 316 (1986), the court said that Arizona statute § 13-3307 was the "bookmaking statute." *Id.* at 264. The court went on to state the legislative history in Arizona statute § 13-3307 shows that bookmaking operations were the target in enacting the predecessor to this statute. *Id.* The court also said that all bookmakers have to do is accept bets on games of skill or chance. They do not have to be non-participants because this is outside the plain language of the statute. *Id.* (following the precedent set by *State v. American Holiday Association, Inc.*, 151 Ariz. 312, 727 P.2d 807).

2. In *State v. Cartwright*, 20 Ariz. App. 94, 510 P.2d 405 the court clarified the words "engaged . . . in the business."? They are meant to distinguish who is in violation of the statute. They differentiate between a "friendly bet" and one made in the bookmaking business. Accepting bets socially is no crime, but doing so as a business is.? *Id.* at 97-98.

3. In *State v. Cartwright*, 20 Ariz. App. 94, 510 P.2d 405, the court held that "each separate acceptance, recording and registering of a bet or purported bet, whether made on one occasion or

during several occasions, by one professionally engaged in the business of 'bookmaking' constitutes a separate offense under Arizona statute § 13-440." *Id.* at 99.

4. Ariz. Rev. Stat. § 5-501(25) (2009) defines "undesirable" as "known bookmakers, touts, persons convicted of a violation of any provision of this article or of any law prohibiting bookmaking or any other illegal forms of wagering, or any other person whose presence would, in the opinion of the director, be inimical to the interests of the state."

5. Arizona statute § 5-108(f) (2009) says that the department can deny anyone a license to engage in legal pari-mutuel activity if they have been convicted of bookmaking in any state.

6. Possession of gambling records; classification

A person commits possession of gambling records if he knowingly possesses any book, writing, paper, instrument, article, electronically-produced data, computer software and programs, discs, tapes or other tangible or intangible method of recording information knowing or having reason to know that it arises out of, or was made in connection with, gambling in violation of this chapter. Ariz. Rev. Stat. § 13-3307 (2009):

7. Thus a bookmaking activity can be proven where a person is in possession of records made in connection with a gambling violation.

III. Specific gaming device definitions

1. Arizona statute § 5-601.02(6)(B)(i) (2009) defines gaming device as: (taken from statute on tribal casinos)

- a. A mechanical device, an electro-mechanical device or a device controlled by an electronic microprocessor or another manner, whether that device constitutes class II gaming or class III gaming, that allows a player or players to play games of chance, whether or not the outcome also is affected in some part by skill, and whether the device accepts coins, tokens, bills, coupons, ticket vouchers, pull tabs, smart cards, electronic in-house accounting system credits or other similar forms of consideration and, through the application of chance, allows a player to become entitled to a prize, which may be collected through the dispensing of coins, tokens, bills, coupons, ticket vouchers, smart cards, electronic in-house accounting system credits or other similar forms of value.

2. Gaming device does not include any of the following:

- a. Those technological aids for bingo games that function only as electronic substitutes for bingo cards.
- b. Devices that issue and validate paper lottery products and that are directly operated only by Arizona state lottery licensed retailers and their employees.

- c. Devices that are operated directly by a lottery player and that dispense paper lottery tickets, if the devices do not identify winning or losing lottery tickets, display lottery winnings or disburse lottery winnings.
- d. Devices that are operated directly by a lottery player and that validate paper lottery tickets for a game that does not have a predetermined number of winning tickets, if:
 - i. The devices do not allow interactive gaming;
 - ii. The devices do not allow a lottery player to play the lottery for immediate payment or reward;
 - iii. The devices do not disburse lottery winnings; and
 - iv. The devices are not video lottery terminals.
 - v. Player activated lottery terminals.

IV. ??Bucket Shop Laws

1. Bucket shop as defined by Ariz. Rev. Stat. § 44-1651 (2009) includes:

Any place wherein dealing in futures is carried on as defined in this section. Futures, dealing in futures, and future contracts means "[a] sale or contract to sell or offer to sell or purchase any copper, gold, silver, lead, cotton, grain or meat or any stocks or bonds of any corporation, to be delivered in the future when it is not the bona fide intention of the party being prosecuted, at the time the transaction was made, that the subject matter of the transaction should be delivered and paid for as specified in such transaction. Any sale, purchase, offer or contract where it was the intention of the party being prosecuted at the time of making the transaction, that it should, or at the option of either party might be, settled by paying or receiving a margin, or profit on such contract. Any purchase, sale or offer of sale or purchase, or contract for future delivery of anything set forth in this section, on, by or through any exchange or board of trade, the rules, by-laws, customs or regulations of which permit such transaction to be settled or closed by delivery or tender of any grade of the thing specified in such transaction, other than the grade upon which the price is based in such transaction, at any price other than the actual price for spot delivery of such other grade at the time and place of delivery or tender."

2. Ariz. Rev. Stat. § 44-1657 outlines the facts that establish a prima facie case of future contract:

"If in a prosecution it is a material issue whether or not the rules, regulations, by-laws or customs of an exchange or board of trade on, by or through which a contract or offer for future delivery was made, permitted such contract or transaction to be settled or closed by delivery or tender of any grade of the subject matter specified in the contract or transaction, other than the grade upon which the price was based in the transaction, or at any price other than the actual price for spot delivery of such other grade or grades, at the time and place of the delivery or tender, proof that the delivery or tender was made or offered or pretended to be made by, through or upon any exchange or board of trade constitutes a prima facie case for the state."

V. Prohibition of Games of Skill

1. Poker / Card Games

"Craps" is game of chance, played with two dice, and included in phrase, "or any similar game whatsoever," in former section declaring person carrying on or conducting any game of faro, monte, chuck-a-luck, etc., "**or any similar game whatsoever, played with cards**, dice, or any other device for money, checks or credits, guilty of misdemeanor, as craps is similar to game of "chuck-a-luck", which is banking game played with three dice by persons betting that certain number will appear on one or more of dice, that sum thereof will make certain number, or that all three will turn up alike.? *State v. Le Noir*, 60 Ariz. 57, 130 P.2d 1037 (1942).

The test for a conviction of operating a banking or percentage game played with cards, dice or any other device is whether the device is used to determine whom wins and whether it was an integral part of the actual gambling. If the device has nothing to do with who wins and loses, then it is not unlawful. *Engle v. State*, 53 Ariz. 458, 467-68, 90 P.2d 988 (1939).

2. Games using Dice

"Craps" is game of chance, played with two dice, and is included in the phrase, "or any similar game whatsoever," in former section declaring person carrying on or conducting any game of faro, monte, chuck-a-luck, etc., "**or any similar game whatsoever, played with cards, dice**, or any other device for money, checks or credits, guilty of misdemeanor, as craps is similar to game of "chuck-a-luck", which is banking game played with three dice by persons betting that certain number will appear on one or more of dice, that sum thereof will make certain number, or that all three will turn up alike.? *State v. Le Noir*, 60 Ariz. 57, 130 P.2d 1037 (1942).

3. Billiards

See State v. Le Noir, 60 Ariz. 57, 130 P.2d 1037 (1942) (making it unlawful for a person to play a game that is played with a device for money, checks, or credits.

4. Bowling

See State v. Le Noir, 60 Ariz. 57, 130 P.2d 1037 (1942) (making it unlawful for a person to play a game that is played with a device for money, checks, or credits.

5. Darts

See State v. Le Noir, 60 Ariz. 57, 130 P.2d 1037 (1942) (making it unlawful for a person to play a game that is played with a device for money, checks, or credits.

"Sports pools, fantasy football, and **card** and **dice** games involving a wager are gambling and, when conducted on a liquor-licensed premises, are not eligible for the either the amusement, regulated, or social gambling exclusions; games of skill, such as **pool**, **darts**, and intellectual and video games, may be legally permissible, but only if they strictly meet all of the required elements of the amusement gambling exclusion." Op. Atty. Gen. No. I98-002.

"Game known as 'shake-a-shift' constitutes 'unlawful gambling' such that liquor license may be revoked, suspended or refused if licensee knowingly allows game to be played at his establishment: licensee receives 'benefit' so as to preclude game from being 'social gambling' even though licensee does not receive any percentage of money patrons place in jar, which may be won by winning throw of dice. Op. Atty. Gen. No. I91-024.

VI. Express Exemptions

1. Social Gaming

a. "Social gambling" means gambling that is not conducted as a business (*see* § 13-3301(2) (2009)) and that involves players (*see* § 13-3301(5) (2009)) who compete on equal terms with each other in a gamble, if all of the following apply:

i. No player receives, or becomes entitled to receive, any benefit, directly or indirectly, other than the player's winnings from the gamble.

ii. No other person receives or becomes entitled to receive any benefit, directly or indirectly, from the gambling activity, including benefits of proprietorship, management or unequal advantage or odds in a series of gambles.

iii. None of the players are under 21

iv. 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

See, Ariz. Rev. Stat. § 13-3301(7) (2009):

b. Under Ariz. Rev. Stat. § 13-3302(2) (2009) social gambling is not prohibited.

2. Charity Gaming

"Charitable organizations may raise money for charitable purposes through the operation of a "casino night" either by (1) not requiring the exchange of any consideration or value for receipt of the chips or script to be used to play the games, or (2) allowing the players to play with raffle tickets and conducting a raffle at the end of the evening." Op. Atty. Gen. No. I87-101.

3. Chucky Cheese Exemptions

Ariz. Rev. Stat. §§ 13-3301(7) (2009) defines amusement gambling as 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. 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 (4) 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 (4) 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 (35) dollars.

4. Commercial Gaming-Casinos / Slots

a. "Regulated gambling" means either:

i. Gaming conducted in accordance with a tribal-state gaming compact,

ii. Or gambling to which all of the following apply:

- 1. It is operated and controlled in accordance with a statute, rule or order of this state or of the US,
- 2. All taxes have been paid in connection with the gambling,
- 3. An organization who is exempt from taxation has records open to public inspection,
- 4. None of the players is under 21 See, Ariz. Rev. Stat. § 13-3301(6) (2009).

b. Commercial gambling is prohibited unless conducted according to this statute.

c. Gambling operated as a business for benefit, whether direct (such as an entrance fee, membership fee, dues, or a portion of a pot) or indirect (such as the use of gambling to attract food or beverage customers), is unlawful and, therefore, not legal on Indian lands unless specifically authorized by a gaming compact or otherwise. Op. Atty. Gen. No. I97-010.

5. Lottery

a. Arizona statute § 5-500 (2009) permits a state lottery.

b. Under Ariz. Rev. Stat. § 5-514 (2009): A person shall not sell a ticket or share at a price greater than that fixed by rule.

i. A person other than a licensed lottery sales agent or any employee of an agent acting within the scope of his employment shall not sell lottery tickets or shares. This section does not prohibit a person from giving lottery tickets or shares to another person as a gift.

"A punch board whereon were collar buttons covering certain numbers which were sold to purchasers, who were given candy in addition to the collar buttons if they uncovered certain specified numbers, is a prohibited lottery." *Ex parte Gray*, 23 Ariz. 461, 204 P. 1029 (1922).

"Playing of bingo on cards which could be obtained absolutely without charge, by any person, would not constitute a lottery, even though radio or television would be used as the media for engaging in the game." Op. Atty. Gen. No. 64-39-L.

"State fair commission's award of all-expense trip to winners of a ticket drawing held at state fair would not violate state anti-lottery laws." Op. Atty. Gen. No. 63-32-L.

6. Horseracing

a. The sections under Ariz. Rev. Stat. § 5-101 (2009) discuss horseracing:

i. Horse racing means racing in which horses are mounted and ridden by jockeys. For purposes of county fair racing meetings, horse racing means racing in which horses or mules are mounted and ridden by jockeys. Ariz. Rev. Stat. § 5-101(19) (2009).

ii. (4) Commercial horse racing means horse racing conducted other than by a county fair association. Ariz. Rev. Stat. § 5-101(4) (2009). 1. "County fair racing association" means an association duly authorized by the board of supervisors to conduct a county fair racing meeting for the benefit of the county. Ariz. Rev. Stat. § 5-101(8) (2009).

iii. Harness racing means horse racing in which the horses are harnessed to a sulky, carriage or similar vehicle and driven by a driver. Ariz. Rev. Stat. § 5-101(18) (2009).

b. Except as otherwise provided, any person within the enclosure of a racing meeting held pursuant to the provisions of this article may wager on the results of a race held at the meeting or televised to the racetrack enclosure by simulcasting pursuant to this section by contributing money to a pari-mutuel pool operated by the permittee as provided by this article. Ariz. Rev. Stat. § 5-112(A) (2009).

c. For the purposes of promoting and encouraging the breeding of Arizona bred horses, each meeting shall offer not less than one race each day of racing which shall be exclusively for Arizona bred horses. In the event such race does not fill, it shall be offered as an open race in which Arizona bred horses have a preference of entry. Ariz. Rev. Stat. § 5-114(B) (2009).

"Horse racing is not in itself a 'game of chance.'" *Engle v. State*, 53 Ariz. 458, 90 P.2d 988 (1939). "The maintenance of establishment frequented by patrons for purpose of betting on horse races in other states at odds fixed by pari-mutual machines in such other states was not

punishable as a 'lottery' or 'raffle' under § 13-3303 [through 3304], although business conducted was 'gambling.'" *Engle v. State*, 53 Ariz. 458, 90 P.2d 988 (1939).

7. Other Pari-mutuel

a. Definition of Pari-mutuel wagering

Pari-mutuel wagering means a system of betting which provides for the distribution among the winning patrons of at least the total amount wagered less the amount withheld under state law.? Ariz. Rev. Stat. § 5-101(21) (2009).

b. Organization that qualify for taxation from income under certain sections

Under Ariz. Rev. Stat. § 13-3302(B) (2009) an organization that has qualified for an exemption from taxation of income under § 43-1201(1), (2), (4), (5), (6), (7), (10) or (11) (2009) may conduct a raffle that is subject to the following restrictions:

i. 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.

ii. The nonprofit organization has been in existence continuously in this state for a five year period immediately before conducting the raffle

iii. 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.

iv. Nothing in paragraph 1 or 3 of this subsection prohibits a licensed general hospital, a licensed special hospital or a foundation established to support cardiovascular medical research that is exempt from taxation of income under § 43-1201, paragraph 4 or the Internal Revenue Code from contracting with an outside agent who participates in the management, sales or operation of the raffle if the proceeds of the raffle are used to fund medical research, graduate medical education or indigent care, provided that the raffles are conducted no more than three times per calendar year.? The maximum fee for an outside agent shall not be greater than fifteen per cent of the net proceeds of the raffle.

c. State, county or local historical societies

i. 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.

Only a qualified tax exempt organization may conduct the games at a "casino night" conducted by the "raffle" method; furthermore, a bona fide local member of the sponsoring organization may not receive any direct or indirect pecuniary benefit from the conduct of the raffle. Op. Att'y. Gen. No. I90-035.

Arizona law does not permit slot machine, keno, or blackjack gaming at charity casino nights or under any other circumstances, and, outside the social and amusement gambling contexts, the only gambling permitted under Arizona law must be conducted as a raffle. *American Greyhound Racing, Inc. v. Hull*, 146 F. Supp. 2d 1021 (D. Ariz. 2001).

8. Bingo

a. Bingo is permitted if a license has been obtained from the licensing authority. Ariz. Rev. Stat. § 5-403(2009).

b. A licensee shall not conduct or operate more than five occasions of bingo during any calendar week. No more than twelve hours of bingo shall be conducted in any building or on any premises during any calendar day. Ariz. Rev. Stat. § 5-406(G) (2009).

c. An alcoholic beverage shall not be offered or given as a prize in any such game. Ariz. Rev. Stat. § 5-406(L) (2009).

d. Except as otherwise provided by this section, a prize greater in amount or value than one thousand dollars shall not be offered or given in any single game of bingo conducted under any such license, and total prizes shall not exceed an amount or value greater than three thousand dollars for any occasion. Door prizes, discounts or other inducements with a value exceeding two hundred fifty dollars per occasion shall not be offered or given away. Ariz. Rev. Stat. § 5-406(P) (2009).

e. The licensing authority may authorize one special bonus game to be played at weekly consecutive occasions with a quarterly prize limit of twelve thousand dollars. Ariz. Rev. Stat. § 5-406(Q) (2009).

f. Under Ariz. Rev. Stat. § 5-406(R) (2009) the equipment used in playing bingo and the method of play shall be such that:

i. Each card shall have an equal opportunity to be a winner.

ii. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection.

iii. All objects or balls shall be present in the receptacle before each game is begun.

iv. All numbers announced shall be plainly and clearly audible or visible to all the players present.

v. Where more than one room is used for any one game, the receptacle, the person calling the numbers as they are drawn and the person removing the objects or balls from the receptacle must be present in the room where the greatest number of players is present and all numbers announced shall be plainly audible or visible to the players in that room and also audible or visible to the players in the other room or rooms.

vi. The cards or sheets of the players shall be part of a deck, group or series of cards, no two of which shall be alike, and which deck, group or series shall not be so prepared or arranged as to prefer any card.

vii. A licensee may provide Braille cards for legally blind persons or allow legally blind persons to supply their own Braille cards. A legally blind person supplying the person's own cards shall pay a fee to the licensee equal to that which would be charged if the legally blind person obtained the cards from the licensee. The bingo game activity shall be conducted and recorded in a manner as prescribed by the licensing authority to verify the gross receipts from each occasion.

g. Any players shall be entitled to call for a verification of all numbers drawn at the time a winner is determined, and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the supervisor and in full view of any player requesting the verification. Ariz. Rev. Stat. § 5-406(U) (2009).

h. One must be physically present to play. Ariz. Rev. Stat. § 5-406(V) (2009).

i. A lottery or raffle cannot be conducted within a twelve hour period before or after a bingo occasion or game on any premises used for bingo games or within one thousand feet of the bingo game. (This excludes the state lottery.) Ariz. Rev. Stat. § 5-406(X) (2009).

j. Under Ariz. Rev. Stat. § 5-114(A) (2009):

For the purpose of promoting and encouraging the breeding of Arizona bred dogs, each meeting shall offer a number of races equal to an average of not less than one for each day of racing which shall be exclusively for Arizona bred dogs. In the event the race does not fill, it shall be offered as an open race in which Arizona dogs have preference of entry.

k. Dog racing means racing in which greyhound dogs chase a mechanical lure. Ariz. Rev. Stat. § 5-101(13) (2009).

VII. Specific Internet Prohibition

1. Ariz. Rev. Stat. § 5-504(I) (2009) strictly prohibits the gaming commissioner to "establish or operate any on-line or electronic keno game or any game played on the internet.

2. "Even Indian Tribes are prohibited from conducting Internet gambling. Ariz. Rev. Stat. § 5-601.02 (2009) states "[t]he tribe shall not be permitted to conduct gaming on the internet unless persons other than Indian tribes within the state or the state are authorized by state law to conduct gaming on the internet."

VIII. Statute of Anne / Recovery of Debts

1. In *Ramirez v. Main*, 11 Ariz. 33, 89 P. 508 (1907), the court held that the owner of property that is lost through gambling by a servant without consent can be recovered from the winner.

2. Ariz. Rev. Stat. § 13-3310 (2009) states that "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 § 13-2314 or chapter 39 of this title."

3. Ariz. Rev. Stat. § 13-2314(A) (2009) states that the attorney general or a county attorney may file an action in superior court on behalf of a person who sustains injury to his person, business or property by racketeering or by a violation of § 13-2312 for the recovery of treble damages and the costs of the suit, including reasonable attorney fees, or to prevent, restrain, or remedy racketeering.

IX. Lawful Commercial Casino Gaming

Casino gaming is permitted through the tribal-state gaming compact.? Ariz. Rev. Stat. Title 5, Chapter 6.

X. Gaming Crimes and Penalties

1. Promotion of Gambling - classification?

Under Ariz. Rev. Stat. § 13-3303 (2006) except for amusement, regulated or social gambling, a person commits "promotion of gambling" if he knowingly does either of the following for a benefit:

a. Conducts, organizes, manages, directs, supervises or finances gambling,

b. Furnishes advice or assistance for the conduct, organization, management, direction, supervision or financing of gambling, or

c. Promotion of gambling is a class 5 felony.

2. Benefiting from gambling; classification Ariz. Rev. Stat. § 13-3304 (2009).

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

3. Possession of a gambling device; classification Ariz. Rev. Stat. § 13-3306 (2009).

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 device is not a violation of Ariz. Rev. Stat. §§ 13-3303, 13-3304, 13-3307 (2009).

d. Possession of a bingo gambling device is a class 2 misdemeanor. Possession of any other gambling device is a class 1 misdemeanor.

Nothing in this section prohibits:

i. The use of gambling devices by nonprofit or charitable organizations pursuant to Ariz. Rev. Stat. § 13-3302(B) (2009).

ii. Possession, distribution or transportation of gambling devices for purposes not prohibited by this chapter.

Mere possession of a slot machine of any age is not unlawful; slot machines which are not used for gambling may not be confiscated. Op. Att'y. Gen. No. I81- 127.

4. Possession of gambling records; classification Ariz. Rev. Stat. § 13-3307 (2009).

a. A person commits possession of gambling records if he knowingly possesses any book, writing, paper, instrument, article, electronically-produced data, computer software and programs, discs, tapes or other tangible or intangible method of recording information knowing or having reason to know that it arises out of, or was made in connection with, gambling in violation of this chapter.

b. Possession of gambling records is a class 1 misdemeanor.

5. Seizure; exception - definition Ariz. Rev. Stat. § 13-3309 (2009).

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. Any gambling records may be seized.

c. Any gambling device may be seized. 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.

d. 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 25 years old.

6. Sale at unauthorized price or by unauthorized persons; violation; classification

A person who sells lottery tickets at an unauthorized price or who is not an authorized person is guilty of a class 1 misdemeanor. Ariz. Rev. Stat. § 5-514 (2009).

7. Sale of tickets or shares to underage persons; violation; classification

A person who sells or offers to sell a lottery ticket or share to anyone under 21 is guilty of a class 3 misdemeanor. Ariz. Rev. Stat. § 5-515 (2009).

8. Sale to persons using state issued electronic benefits transfer cards; violation; classification

A person who sells a ticket to a person using an electronic benefits card issued by the state is guilty of a class 3 misdemeanor. Ariz. Rev. Stat. § 5-515.01 (2009).

9. Purchase of lottery tickets by minors

A person under 21 who knowingly purchases a lottery ticket is guilty of a petty offense. Ariz. Rev. Stat. § 5-515.02 (2009).

10. Alteration of lottery tickets

Any person who, with intent or fraud, falsely makes, alters, forges, utters, passes or counterfeits a state lottery ticket or share is guilty of a class 3 felony. Ariz. Rev. Stat. § 5-516 (2009).

11. Under Ariz. Rev. Stat. § 5-410 (2009)

Every bingo licensee and every officer, agent or employee of the licensee and every other person or corporation who knowingly violates any provision of this article is guilty of a class 3 misdemeanor unless another classification is specifically prescribed in this article. A person who knowingly files a false report under this article is guilty of a class 6 felony.

12. Under Ariz. Rev. Stat. § 5-115 (2009):

a. At any racing meeting conducted under the provisions of this article, a person is guilty of a class 4 felony, if he:

i. Knowingly influences or has any understanding or connivance with any official, owner, jockey, trainer, groom, starter, assistant starter or other person associated with a stable, kennel or race in which any horse or dog participates to predetermine the result thereof.

ii. Knowingly gives or offers a bribe in any form to any official, owner, trainer, jockey, driver or groom, starter or assistant starter or any other person licensed by the department or accepts or solicits a bribe in any form.

iii. Knowingly has in his possession or in use, while riding or driving in any horse race, any mechanical or electric device capable of affecting a horse's performance other than an ordinary whip.

iv. Knowingly commits any other corrupt or fraudulent practice in relation to racing which affects or may affect the result of a race.

v. For the purpose of selling or offering to sell predictions on horse races, harness races or dog races, advertises that he has predicted the outcome of any race which has been run in this state, unless such person has notified in writing the department or a representative of the department of his predictions at least three hours prior to the race involved on forms prescribed by the department.? No person shall advertise the fact that he has notified the department or use the name of the department in any way whatsoever to promote the activities described in this section. For the purposes of this paragraph, "advertise" means the use of any newspaper, magazine or other publication, book, notice, circular, pamphlet, letter, handbill, tip sheet, poster, bill, sign, placard, card, label, tag window display, store sign, radio or television announcement, or other means or methods now or hereafter employed to bring to the attention of the public information concerning the outcome of horse or dog races.? Nothing contained in this paragraph shall apply to any daily newspaper of general circulation which is regularly entered in the United States mail, or any other daily publication carrying complete past performances of horses or dogs entered in races, or to any regularly published magazine or periodical devoted to racing news, which magazine or periodical has been published for at least two years.

b. It is a class 4 felony for:

i. A trainer or owner to enter a horse or dog in a race if the trainer or owner knows that the horse or dog is drugged or desensitized and that the racing performance of the animal is affected.

ii. A person to perform the drugging or desensitizing of a horse or dog if such a person knows that the horse or dog will compete in a race while so drugged or desensitized and knows that the racing performance of the animal is affected.

iii. A person to intentionally fail to notify a steward as soon as reasonably possible that a horse or dog entered in a race is drugged or desensitized or that a horse or dog was not properly made available for the required tests or inspections and knows that the racing performance of the animal may be affected.

iv. A person to intentionally impair or alter the normal performance of a pari-mutuel wagering system with the intent to defraud or injure the state or a permittee. Alteration of the normal performance of a pari-mutuel system includes:

1. Altering, changing or interfering with any equipment or device used in connection with pari-mutuel wagering.

2. Causing any false, inaccurate, delayed or unauthorized data, impulse or signal to be fed into, transmitted over, registered in or displayed on any equipment or device used in connection with pari-mutuel wagering.

3. A person to impair or alter the normal operation of simulcast broadcasts by intentionally doing any of the following with the intent to defraud or injure the state or a permittee:

a. Intercepting or decoding a transmission of a simulcast signal, either in whole or in part, which has been authorized in writing for the use of pari-mutuel wagering and which the director has not provided written authorization for the person to receive or decode.

b. Without written authorization from the director, manufacturing, distributing or selling a device, a plan or a kit for a device capable of intercepting or decoding a transmission of a simulcast signal with the intent that the device, plan or kit be used for interception or decoding.

c. Without written authorization from the director, possessing a device, a plan or a kit for a device capable of intercepting or decoding a transmission of a simulcast signal with the intent that the device, plan or kit be used for the interception or decoding.

d. The department, in addition to any criminal penalties provided in this chapter and in addition to suspension or revocation of a credential or a license, may levy a civil penalty as to a licensee or a holder of a credential as follows:

i. In an amount of not to exceed five thousand dollars for each violation of any provision of subsection A.

ii. In an amount of not to exceed one thousand dollars for each violation of any provision of this chapter which constitutes grounds for suspension or revocation of a credential or license, except for violation of those provisions contained in subsection A. All sums paid to the department pursuant to this subsection shall be deposited, pursuant to § 35-146 and § 35-147 the state general fund.

e. Any person who holds or conducts any racing meeting or operates an additional wagering facility without first complying with the provisions of this article, or any person who fails to submit to a drug test as directed by stewards or who violates any other provision of this article for which no other penalty is prescribed, is guilty of a class 2 misdemeanor.

f. A member of the commission or an employee of the department who at any time, directly or indirectly, knowingly receives any money, bribe, tip or other thing of value or service from any person connected with racing given with an intent to influence his official action, or any person connected with racing who, directly or indirectly, knowingly gives such money, bribe, tip or other thing of value or service to a member of the commission or an employee of the department with intent to influence his official action, is guilty of a class 4 felony.

g. A person who knowingly removes or alters, either directly or indirectly, any tattoo, other marking, device, coloration or special characteristic that is required by the department for the purpose of identifying a greyhound used or bred for racing purposes or a person who knowingly subjects a greyhound used or bred for racing purposes regulated under this chapter to grossly inhumane conditions or severe mistreatment is guilty of a class 6 felony. For purposes of this subsection:

i. "Grossly inhumane conditions" means conditions arising from a person's reckless indifference to the consequences of an act or omission if the person, without any actual intent to injure, is aware from his knowledge of existing circumstances and conditions that his conduct will inevitably or probably result in injury to a greyhound used or bred for racing purposes.

ii. "Severe mistreatment" means the infliction of physical pain, suffering or death on a greyhound used or bred for racing purposes in a manner that is either wanton or with reckless indifference to pain or suffering.

13. Bucket shop:

a. "A person who carries on or conducts a bucket shop is guilty of a class 2 misdemeanor." Ariz. Rev. Stat. § 44-1652 (2009).

b. "An owner or person managing or controlling property who knowingly rents or leases such property to be used as a bucket shop, or knowingly permits the property to be so used, is guilty of a class 2 misdemeanor." Ariz. Rev. Stat. § 44-1653 (2009).

c. "A telegraph or telephone company or any agent thereof which knowingly permits a telegraph or telephone wire or instrument to remain in a bucket shop or knowingly permits the wires, instruments or equipment of the telegraph or telephone company to be used by a person

operating a bucket shop, whether or not such equipment or instruments are leased by the person illegally using them, is guilty of a petty offense. Each day shall constitute a separate offense." Ariz. Rev. Stat. § 44-1654 (2009).

d. "A person who makes or offers to make for himself a future contract is guilty of a class 3 misdemeanor." Ariz. Rev. Stat. § 44-1655(A) (2009).

e. "A person who acts or offers to act as the agent or broker of any person in making or offering to make a future contract is guilty of a class 2 misdemeanor." Ariz. Rev. Stat. § 44-1656 (2009)

f. "The habitual, actual, threatened or contemplated use of any premises, place or building, telegraph or telephone wires or instruments in violation of the prohibitions imposed on bucket shops by this article may be enjoined by the state or any citizen thereof." Ariz. Rev. Stat. § 44-1659 (2009).