

## ARIZONA GAMBLING LAWS

### TITLE 4. ALCOHOLIC BEVERAGES CHAPTER 2. REGULATIONS AND PROHIBITIONS ARTICLE 3. PROHIBITIONS

#### 4-243. Commercial coercion or bribery unlawful; exceptions

A. It is unlawful for a person engaged in the business of distiller, vintner, brewer, rectifier, blender or any other producer or wholesaler of any spirituous liquor, directly or indirectly, or through an affiliate:

1. To require that a retailer purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons.
2. To induce a retailer by any form of commercial bribery to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons.
3. To acquire an interest in property owned, occupied or used by the retailer in his business, or in a license with respect to the premises of the retailer.
4. To furnish, give, rent, lend or sell to the retailer equipment, fixtures, signs, supplies, money, services or other things of value, subject to such exception as the rules adopted pursuant to this title may prescribe, having regard for established trade customs and the purposes of this subsection.
5. To pay or credit the retailer for advertising, display or distribution service, except that the director may adopt rules regarding advertising in conjunction with seasonal sporting events.
6. To guarantee a loan or repayment of a financial obligation of the retailer.
7. To extend credit to the retailer on a sale of spirituous liquor.
8. To require the retailer to take and dispose of a certain quota of spirituous liquor.
9. To offer or give a bonus, premium or compensation to the retailer or any of his officers, employees or representatives.

B. This section does not prohibit any distiller, vintner, brewer, rectifier, blender or other producer or wholesaler of any spirituous liquor from giving financial and other forms of event sponsorship assistance to nonprofit or charitable organizations for purposes of charitable fund raising which are issued special event licenses by the department. This section does not prohibit such suppliers from advertising their sponsorship at such special events.

C. Notwithstanding subsection A, paragraph 4, any wholesaler of any spirituous liquor may sell tobacco products or foodstuffs to a retailer at a price not less than the cost to the wholesaler.

D. It is unlawful for a retailer to request and knowingly receive anything of value that a distiller, vintner, brewer, rectifier, blender, or other producer or wholesaler is prohibited by subsection A from furnishing to a retailer except that this subsection shall not prohibit special discounts provided to retailers based on quantity purchases.

#### 4-244 . Unlawful acts

It is unlawful:

1. For a person to buy for resale, sell or deal in spirituous liquors in this state without first having procured a license duly issued by the board.

2. For a person to sell or deal in alcohol for beverage purposes without first complying with this title.
3. For a distiller, vintner, brewer or wholesaler knowingly to sell, dispose of or give spirituous liquor to any person other than a licensee except in sampling wares as may be necessary in the ordinary course of business or except in donating spirituous liquor to a nonprofit organization which has obtained a special event license for the purpose of charitable fund raising activities.
4. For a distiller, vintner or brewer to require a wholesaler to offer or grant a discount to a retailer, unless the discount has also been offered and granted to the wholesaler by the distiller, vintner or brewer.
5. For a distiller, vintner or brewer to use a vehicle for trucking or transportation of spirituous liquors unless there is affixed to both sides of the vehicle a sign showing the name and address of the licensee and the type and number of the person's license in letters not less than three and one-half inches in height.
6. For a person to take or solicit orders for spirituous liquors unless the person is a salesman or solicitor of a licensed wholesaler, a salesman or solicitor of a distiller, brewer, vintner, importer or broker or a registered retail agent.
7. For any retail licensee to purchase spirituous liquors from any person other than a solicitor or salesman of a wholesaler licensed in this state.
8. For a retailer to acquire an interest in property owned, occupied or used by a wholesaler in his business, or in a license with respect to the premises of the wholesaler.
9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age, or for a person under the legal drinking age to buy, receive, have in possession or consume, spirituous liquor. The provisions of this paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.
10. For a licensee to employ a person under the age of nineteen years to manufacture, sell or dispose of spirituous liquors. The provisions of this paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.
11. For an on-sale retail licensee to employ a person under the age of nineteen years in any capacity connected with the handling of spirituous liquors. This paragraph does not prohibit the employment by an on-sale retailer of a person under the age of nineteen years who cleans up the tables on the premises for reuse, removes dirty dishes, keeps a ready supply of needed items and helps clean up the premises.
12. For a licensee, when engaged in waiting on or serving customers, to consume spirituous liquor or for a licensee or on-duty employee to be on or about the licensed premises while in an intoxicated or disorderly condition.
13. For an employee of a retail licensee, during that employee's working hours or in connection with such employment, to give to or purchase for any other person, accept a gift of, purchase for himself or consume spirituous liquor, except that an employee of a licensee, during that employee's working hours or in connection with the employment, while the employee is not engaged in waiting on or serving customers, may give spirituous liquor to or purchase spirituous liquor for any other person. An unpaid volunteer who is a bona fide member of a club and who is not engaged in waiting on or serving spirituous liquor to

customers may purchase for himself and consume spirituous liquor while participating in a scheduled event at the club. An unpaid participant in a food competition may purchase for himself and consume spirituous liquor while participating in the food competition.

14. For a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or obviously intoxicated person, or for a licensee or employee of the licensee to allow or permit a disorderly or obviously intoxicated person to come into or remain on or about the premises, except that a licensee or an employee of the licensee may allow an obviously intoxicated person to remain on the premises for a period of time of not to exceed thirty minutes after the state of obvious intoxication is known or should be known to the licensee in order that a nonintoxicated person may transport the obviously intoxicated person from the premises. For purposes of this section, "obviously intoxicated" means inebriated to the extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person.

15. For an on-sale or off-sale retail licensee or an employee of such licensee to sell, dispose of, deliver or give spirituous liquor to a person between the hours of 1:00 a.m. and 6:00 a.m. on weekdays, and 1:00 a.m. and 10:00 a.m. on Sundays.

16. For a licensee or employee to knowingly permit any person on or about the licensed premises to give or furnish any spirituous liquor to any person under the age of twenty-one or knowingly permit any person under the age of twenty-one to have in the person's possession spirituous liquor on the licensed premises.

17. For an on-sale retail licensee or an employee of such licensee to allow a person to consume spirituous liquors on the premises between the hours of 1:15 a.m. and 6:00 a.m. on weekdays, and 1:15 a.m. and 10:00 a.m. on Sundays, or allow a person who is not the licensee or employee to possess spirituous liquors in open containers on the premises between the hours of 1:30 a.m. and 6:00 a.m. on weekdays, and 1:30 a.m. and 10:00 a.m. on Sundays.

18. For an on-sale retail licensee to permit an employee or for an employee to solicit or encourage others, directly or indirectly, to buy the employee drinks or anything of value in the licensed premises during the employee's working hours. No licensee shall serve employees or allow a patron of the establishment to give spirituous liquor to, or to purchase liquor for or drink liquor with, any employee during the employee's working hours.

19. For an off-sale retailer or employee to sell spirituous liquor except in the original unbroken container, to permit spirituous liquor to be consumed on the premises or to knowingly permit spirituous liquor to be consumed on adjacent property under the licensee's exclusive control.

20. For a person to consume spirituous liquor in a public place, thoroughfare or gathering. The license of a licensee permitting a violation of this paragraph on the premises shall be subject to revocation. This paragraph does not apply to the sale of spirituous liquors on the premises of and by an on-sale retail licensee. This paragraph also does not apply to a person consuming beer from a broken package in a public recreation area or on private property with permission of the owner or lessor or on the walkways surrounding such private property.

21. For a person to have possession of or to transport spirituous liquor which is manufactured in a distillery, winery, brewery or rectifying plant contrary to the laws of the United States and this state. Any property used in transporting such spirituous liquor shall be forfeited to the state and shall be seized and disposed of as provided in section 4-221.

22. For a person to operate a motor vehicle on any highway while consuming spirituous liquor.

23. For an on-sale retail licensee or employee to allow a person under the legal drinking age to remain in an area on the licensed premises, during those hours in which its primary use is the sale, dispensing or consumption of alcoholic beverages, after the licensee, or the licensee's employees, know or should have

known that the person is under the legal drinking age. A licensee may designate an area of the licensed premises as an area in which spirituous liquor will not be sold or consumed for the purpose of allowing underage persons on the premises if the designated area is separated by a physical barrier and at no time will the underage persons have access to the area in which spirituous liquor is sold or consumed. The director, or a municipality, may adopt rules to regulate the presence of underage persons on licensed premises provided the rules adopted by a municipality are more stringent than those set forth by the director. The rules adopted by the municipality shall be adopted by local ordinance. This paragraph does not apply:

(a) If the person under the legal drinking age is accompanied by a spouse, parent or legal guardian of legal drinking age or is an on-duty employee of the licensee.

(b) To the area of the premises used primarily for the serving of food during the hours when food is served.

24. For an on-sale retail licensee or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more than thirty-two ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph.

25. For a licensee or employee to knowingly permit the unlawful possession, use, sale or offer for sale of narcotics, dangerous drugs or marijuana on the premises.

26. For a licensee or employee to knowingly permit prostitution or the solicitation of prostitution on the premises.

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

28. For a licensee or employee to knowingly permit trafficking or attempted trafficking in stolen property on the premises.

29. For a licensee or employee to fail or refuse to make the premises or records available for inspection and examination as provided in this title or to comply with a lawful subpoena issued under this title.

30. For any person other than a peace officer or the licensee or an employee of the licensee acting with the permission of the licensee to be in possession of a firearm while on the licensed premises of an on-sale retail establishment knowing such possession is prohibited. This paragraph shall not be construed to include a situation in which a person is on licensed premises for a limited time in order to seek emergency aid and such person does not buy, receive, consume, or possess spirituous liquor. This paragraph shall not apply to hotel or motel guest room accommodations nor to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.

31. For a licensee or employee to knowingly permit a person in possession of a firearm other than a peace officer or the licensee or an employee of the licensee acting with the permission of the licensee to remain on the licensed premises or to serve, sell, or furnish spirituous liquor to a person in possession of a firearm while on the licensed premises of an on-sale retail establishment. This paragraph shall not apply to hotel or motel guest room accommodations nor to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. It shall be a defense to action under this paragraph if the licensee or employee requested assistance of a peace officer to remove such person.

32. For a licensee or employee to knowingly permit spirituous liquor to be removed from the licensed premises, except in the original unbroken package. This paragraph shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.

33. For a person who is obviously intoxicated to buy or attempt to buy spirituous liquor from a licensee or employee of a licensee or to consume spirituous liquor on the licensed premises.

34. For a person under the age of twenty-one years to drive or be in physical control of a motor vehicle while there is any spirituous liquor in the person's body.

35. For a person under the age of twenty-one years to operate or be in physical control of a motorized watercraft that is underway while there is any spirituous liquor in the person's body. For the purposes of this paragraph, "underway" has the same meaning as prescribed in section 5-301.

36. For a licensee, manager, employee, or controlling person to purposely induce a voter, by means of alcohol, to vote or abstain from voting for or against a particular candidate or issue on an election day.

37. For a licensee to fail to report an occurrence of an act of violence to either the department or a law enforcement agency.

38. For a licensee to use a vending machine for the purpose of dispensing spirituous liquor.

39. For a licensee to offer for sale a wine carrying a label including a reference to Arizona or any Arizona city, town or geographic location unless at least seventy-five per cent by volume of the grapes used in making the wine were grown in Arizona.

40. For a retailer to knowingly allow a customer to bring spirituous liquor onto the licensed premises, except that an on-sale retailer may allow a wine and food club to bring wine onto the premises for consumption by the club's members and guests of the club's members in conjunction with meals purchased at a meeting of the club that is conducted on the premises and that at least seven members attend. An on-sale retailer who allows wine and food clubs to bring wine onto its premises under this paragraph shall comply with all applicable provisions of this title and any rules adopted pursuant to this title to the same extent as if the on-sale retailer had sold the wine to the members of the club and their guests. For the purposes of this paragraph, "wine and food club" means an association that has more than twenty bona fide members paying at least six dollars per year in dues and that has been in existence for at least one year.

**TITLE 5. AMUSEMENTS AND SPORTS**  
**CHAPTER 2. BOXING AND SPARRING**  
**ARTICLE 1. GENERAL PROVISIONS**  
**5-508 . Reports; studies and investigations**

A. The director shall report immediately to the governor, the speaker of the house of representatives and the president of the senate any matters that require immediate changes in the laws of this state to prevent abuses or evasions of this chapter or rules promulgated pursuant to this chapter or to rectify undesirable conditions in connection with the administration or operation of the lottery.

B. The director shall conduct an ongoing study and investigation of the lottery for the following purposes:

1. To ascertain any defects in this chapter or in the rules through which any abuses in the administration and operation of the lottery or any evasion of this chapter or the rules may arise or be practiced.

2. To formulate recommendations for changes in this chapter.

3. To guard against the use of this chapter and the rules as a cloak for organized gambling and crime.

4. To insure that this chapter and the rules are in a form and are administered to serve the true purposes of this chapter.

C. The director shall conduct an ongoing study and investigation of the operation and the administration of lottery laws in effect in other states or countries, any literature on the subject which may be published or

available, any federal laws which may affect the operation of the lottery and the reaction of citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this chapter.

#### **5-517 . Purchase of tickets and receipt of prizes by certain persons prohibited**

A. A lottery ticket or share may not be purchased by and a prize may not be paid to an officer or employee of the commission or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of such officer or employee.

B. A Lottery ticket or share may not be purchased by and a prize may not be paid to any of the following persons:

1. An officer or employee of any person contracting with the commission to supply gaming equipment or lottery tickets, advertising or consulting services or to draw or otherwise select winning tickets or shares if the officer or employee is involved in the direct provision of goods or services to the commission or has access to information made confidential by the commission.

2. A spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of a person described in paragraph 1.

3. The immediate supervisor of a person described in paragraph 1.

#### **5-601 . Gambling on Indian reservations; tribal-state compacts**

A. Notwithstanding any other law, this state, through the governor, may enter into negotiations and execute tribal-state compacts with Indian tribes in this state pursuant to the Indian gaming regulatory act of 1988 (25 United States Code sections 2701 through 2721 and 18 United States Code sections 1166 through 1168). Notwithstanding the authority granted to the governor by this subsection, this state specifically reserves all of its rights, as attributes of its inherent sovereignty, recognized by the tenth and eleventh amendments to the United States Constitution. The governor shall not execute a tribal-state compact which waives, abrogates or diminishes these rights.

B. The governor shall not concur in any determination by the United States secretary of the interior that would permit gaming on lands acquired after October 17, 1988 pursuant to 25 United States Code section 2719.

C. The department of gaming is authorized to carry out the duties and responsibilities of the state gaming agency in compacts executed by the state and Indian tribes of this state pursuant to the Indian gaming regulatory act.

D. In carrying out its duties under tribal-state gaming compacts, the department of gaming is exempt from the rule making requirements of title 41, chapter 6.

E. Indian tribes of this state which have executed compacts with the state shall pay to the department of gaming their share of the regulatory costs necessary to carry out the duties required by any executed tribal-state compact authorized by the Indian gaming regulatory act. The department of gaming shall collect from each of the tribes that have executed a compact with the state their share of the costs incurred by the department pursuant to this chapter. The dates and methods of payment shall be as specified in the tribal-state compacts.

F. A permanent tribal-state compact fund is established in the state treasury consisting of monies received pursuant to subsection E of this section and other monies received pursuant to this chapter. The department of gaming shall administer the fund. The director of the department of gaming shall make an annual report to the governor, the president of the senate, the speaker of the house of representatives and each tribe which has executed a compact with the state disclosing in detail the activities of the department of gaming

pursuant to this chapter including a full and complete statement of revenues deposited in and expenditures from the permanent tribal-state compact fund. Monies paid by the tribes shall only be used for reimbursement of administrative and regulatory expenses incurred by the department pursuant to this chapter.

G. Monies received by the department of gaming and deposited in the permanent tribal-state compact fund pursuant to this chapter on or before June 30, 1993 are appropriated to the department of gaming for the purposes of carrying out the duties of the director of the department of gaming under this section. Monies deposited in the permanent tribal-state compact fund after June 30, 1993 are subject to legislative appropriation.

H. All monies in the fund are exempt from the provisions of section 35-190, relating to lapsing of appropriations.

**5-601.01 . Standard form of tribal-state compact; eligible tribes; limitation on time for execution of compact**

A. Notwithstanding any other law or the provisions of section 5-601, the state, through the governor, shall enter into the state's standard form of gaming compact with any eligible Indian tribe that requests it.

B. For the purposes of this section:

1. The state's standard form of gaming compact is the form of compact that contains provisions limiting types of gaming, the number of gaming devices, the number of gaming locations, and other provisions, that are common to the compacts entered into by this state with Indian tribes in this state on June 24, 1993, and approved by the United States secretary of the interior on July 30, 1993.

2. An eligible Indian tribe is an Indian tribe in this state that has not entered into a gaming compact with the state.

C. The state, through the governor, shall execute the compact required by this section within thirty days after written request by the governing body of an eligible tribe.

**5-602 . Gaming certification and enforcement; powers; duties; deputy director**

A. The department of gaming may certify persons engaging in activities associated with tribal gaming as provided in tribal-state compacts executed by the governor pursuant to this chapter.

B. The department of gaming shall establish a certification and enforcement unit charged with the investigative duties relevant to tribal-state compacts, including applications for certification, investigations and enforcement, and such other duties as the director of the department of gaming prescribes.

C. To determine the suitability of prospective applicants for any tribal gaming license or state certification, each applicant shall be required to furnish a full set of fingerprints and such fingerprints shall be submitted to the department of public safety for a criminal history records check. Each applicant's fingerprints shall also be submitted by the department of public safety to the federal bureau of investigation for a national criminal history records check. The department of gaming is authorized to receive criminal history records information from the department of public safety and from the federal bureau of investigation for the purpose of evaluating the fitness of applicants for any tribal gaming license, state certification or renewal.

D. The department of gaming may employ the services of the office of administrative hearings to conduct hearings pursuant to title 41, chapter 6, article 10 on matters requested to be heard by the director of the department of gaming. Any party aggrieved by an order or decision of the director of the department of gaming may appeal to the superior court as provided in title 41, chapter 6, article 10.

E. The director of the department of gaming may issue subpoenas for the attendance of witnesses and the production of books, records and documents necessary for the enforcement of this article and the tribal-state compacts. These subpoenas shall be served and enforced in a manner consistent with title 41, chapter 6, article 10.

F. The director of the department of gaming may establish the position of deputy director of the department of gaming. The deputy director of the department of gaming position is exempt from the provisions of title 41, chapter 4, articles 5 and 6. Persons holding the position of deputy director of the department of gaming are eligible to receive compensation pursuant to section 38-611.

G. The director of the department of gaming may enter into a contract or agreement with any public agency for any joint and cooperative action as provided in title 11, chapter 7, article 3.

### **5-603 . Department of gaming investigators; peace officer status**

An investigator who is regularly employed and paid by the department of gaming and who is certified by the Arizona peace officer standards and training board has the authority of a peace officer.

5-604 . Department of gaming; director; qualifications; term; conflict of interest; grounds for dismissal

A. The department of gaming is established.

B. The governor shall appoint a director of the department of gaming pursuant to section 38-211. The director serves at the pleasure of the governor. To be eligible for appointment as director, a person shall not have a financial interest in a gambling operation or in the gambling industry in this state during the term of appointment. The governor may appoint an acting director if there is a vacancy in the office.

C. The director and all other employees of the department are exempt from title 41, chapter 4, articles 5 and 6. The director is eligible to receive compensation pursuant to section 38-611.

D. The employment or financial interest of any relative to the first degree of consanguinity or affinity to the director or any other employee of the department in the gambling industry in this state is grounds for the dismissal of the director or any other employee of the department.

## **ARTICLE 2. ARIZONA STATE BOXING COMMISSION**

### **5-224 . Appointment of officers and employees; salary of executive secretary; powers and duties of commission**

A. The commission may appoint an executive secretary, deputies, medical doctors and other personnel as required to perform the duties prescribed by the commission. The secretary is eligible to receive an annual salary as determined pursuant to section 38-611.

B. The commission shall obtain from a physician licensed to practice in this state rules and standards for the physical examination of boxers and referees. A schedule of fees to be paid physicians by the promoter or matchmaker for the examination shall be set by the commission.

C. The commission may adopt and issue rules pursuant to title 41, chapter 6 to carry out the purposes of this chapter.

D. The commission shall hold a regular meeting quarterly and in addition may hold special meetings. Except as provided in section 5-223, subsection B, all meetings of the commission shall be open to the public and reasonable notice of the meetings shall be given pursuant to title 38, chapter 3, article 3.1.

E. The commission shall:

1. Make and maintain a record of its acts and proceedings including the issuance, denial, renewal, suspension or revocation of licenses.
2. Keep records of the commission open to public inspection at all reasonable times.
3. Assist the director in the development of rules to be implemented pursuant to section 5-104, subsection T.
4. Conform to the rules adopted pursuant to section 5-104, subsection T.

F. The commission may enter into intergovernmental agreements with Indian tribes, tribal councils or tribal organizations to provide for the regulation of boxing contests on Indian reservations. Nothing in this chapter shall be construed to diminish the authority of the department of gaming.

**TITLE 9. CITIES AND TOWNS**  
**CHAPTER 2. FORM OF GOVERNMENT**  
**ARTICLE 3. TOWN INCORPORATED UNDER COMMON COUNCIL GOVERNMENT**  
**9-240 . General powers of common council**

- A. The common council shall have control of the finances and property of the corporation.
- B. The common council shall also have power within the limits of the town:
  1. To erect, purchase or lease necessary buildings for the purposes of the corporation.
  2. To appropriate money and provide for the payment of its debts and expenses.
  3. (a) To exercise exclusive control over the streets, alleys, avenues and sidewalks of the town and to give and change the names thereof.
    - (b) To prevent and punish for the encumbering thereof, and to abate and remove all encumbrances and obstructions thereon.
    - (c) To widen, extend, straighten, regulate, grade, clean or otherwise improve the same.
    - (d) To open, lay out and improve new streets, avenues and alleys.
    - (e) To vacate or abandon any street, avenue, alley, park, public place or sidewalk in such town or to abolish them, provided that rights-of-way or easements of existing sewer, gas, water or similar pipelines and appurtenances and for canals, laterals or ditches and appurtenances, and for electric, telephone, and similar lines and appurtenances shall continue as they existed prior to the vacating, abandonment, or abolishment thereof.
    - (f) To protect the same from encroachment and injury.
  4. To erect and maintain bridges, culverts, sidewalks and crossways, and prevent and punish for injuries thereto or obstructions thereon.
  5. (a) To construct and maintain sewers and drains, and prevent and punish for any obstruction thereof, or thereto.
    - (b) To change the channels of natural watercourses, to wall the same and cover them over, and regulate the same as sewers.

(c) To prevent and punish for the filling up, altering or changing of natural watercourses by private persons.

(d) To regulate the bridging of all millraces, irrigating and other ditches at the crossings of public highways, by the owners of such millraces and ditches, and after such bridge or ford is built according to the street commissioner's instructions, the crossing shall thereafter be a public charge.

6. To provide the town with water, to construct public wells, cisterns and reservoirs in the streets and other public and private places within the town, or beyond the limits thereof, and to supply the same with pumps and conducting pipes or ditches.

7. (a) To provide regulations for the prevention and extinguishment of fires.

(b) To prevent the erection of wooden buildings within prescribed limits.

(c) To regulate the construction of chimneys, furnaces and fireplaces.

(d) To regulate the storage of explosives, tar, pitch, resin and other combustible or inflammable materials, and to prescribe the places and manner of storing the same.

8. To provide for lighting the streets and other public places of the town, and to exclusively regulate and control the laying and repairing of gas pipes and other appurtenances therein.

9. To provide for enclosing, improving and protecting the public grounds and cemeteries of the town, and to direct and regulate the planting of ornamental and shade trees therein and in the streets of the town.

10. To establish markets and marketplaces for the town and to regulate the same.

11. (a) To establish and maintain necessary cemeteries and burial places for the town beyond the limits thereof.

(b) To regulate the burial of the dead.

(c) To require a registration of the deaths and births, and to impose penalties upon physicians and surgeons for any default in the premises.

12. To establish and regulate the police of the town, to appoint watchmen and policemen, and to remove them, and to prescribe their powers and duties.

13. To prevent, suppress and punish any riot, rout, affray, disorderly noise or disturbance in any public or private place within the town.

14. To prevent, suppress and punish racing or immoderate riding or driving through the streets.

15. (a) To prohibit and punish any amusements or practice tending to annoy or obstruct persons passing upon the streets or sidewalks, or frighten horses or other animals being ridden or driven thereon.

(b) To restrain and punish the ringing of bells, blowing of horns, crying of goods or other noises, performances and practices tending to cause the collection of persons upon the streets or sidewalks and the obstruction thereof.

16. (a) To prohibit the roaming at large of animals within the town.

(b) To authorize the impounding and summary sale thereof when found roaming at large contrary to ordinance.

(c) To impose penalties upon the owners thereof for a violation of any ordinance in relation thereto.

(d) To regulate, restrain and prohibit the running at large of dogs and to authorize their destruction when at large contrary to any ordinance of the town, and to impose penalties upon the owners thereof.

17. (a) To suppress and prohibit prostitution and unlawful sexual intercourse and to punish persons guilty thereof.

(b) To suppress and prohibit the operation of disorderly houses and to punish the owners, managers, lessees, agents, keepers and inmates thereof.

(c) To suppress and prohibit gambling and the operating of gambling houses and to punish the owners, managers and employees thereof and players at such games.

18. To fix the amount of license taxes to be paid by any person, firm, corporation or association for carrying on any business, game or amusement, calling, profession or occupation, and prescribe the method of collection or payment of the same, for a stated period in advance, and fix penalties for failure to comply by fine or imprisonment, or both. Nothing in this article shall be construed as authorizing any town or city to levy an occupational license or fee on any activity when the general law of the state precludes levying such a license or fee.

19. To authorize the clerk to issue licenses, to direct the manner of issuing and registering the same, and the fees of the clerk therefor. No license shall be granted for more than one year, and not less than ten dollars nor more than five thousand dollars shall be charged for any license so issued.

20. (a) To provide regulations to prevent the introduction or spread of contagious, loathsome or infectious diseases within the town.

(b) To make quarantine laws and enforce them within the town and within two miles thereof, and to provide pest houses and hospitals necessary therefor.

21. (a) To define, abate and remove nuisances, and punish persons committing nuisances.

(b) To compel the owner or any occupant of any house or premises to clean the grounds, stables, alleys, streets and walks appurtenant and adjacent thereto.

(c) To prohibit within the town and within two miles beyond the limits thereof slaughterhouses, tanneries, soap factories, establishments for the steaming or rendering of tallow, lard or offal, and all other establishments and places where any nauseous, offensive or unwholesome business may be carried on.

22. To perform other acts, and prescribe other regulations, which may be necessary or expedient for the prevention or suppression of disease.

23. To establish and maintain a workhouse or houses of correction, to make regulations for the government thereof and to appoint the officers and keepers thereof.

24. To authorize the arrest and punishment of vagrants, stragglers and idle and disorderly persons found loitering or strolling about in public places, leading an immoral or profligate life, and to authorize the confinement of any such person, and persons who fail to pay any fine, in the workhouse or house of correction for a period not exceeding three months.

25. (a) To direct and control the laying and construction of railroad tracks, bridges, switches and sidetracks in the streets, alleys and other public places of the town.

(b) To require the same to be so laid and constructed as to interfere as little as possible with the ordinary travel and use of the streets, and other public places.

(c) To authorize the construction of tramways, electric, steam or cable roads and railways in the town, and to regulate the operation thereof, and the fares to be charged thereon and to require the owners thereof to keep in repair the streets wherein the same may be laid, and to construct and keep in repair all bridges, culverts, crossways, ditches and sewers.

(d) To regulate the speed of locomotives.

26. To levy taxes as hereinafter mentioned in this article.

27. To apply any surplus money in the treasury of the town to the extinguishment of the debt of the town, or to provide a sinking fund for that purpose.

28. (a) To make, amend or repeal all ordinances necessary or proper for the carrying into effect of the powers vested in the corporation, or any department or officer thereof.

(b) To enforce the observance of such ordinances, and to punish violations thereof by fine or imprisonment, or both, and by confinement at hard labor, in the discretion of the magistrate or court before whom a conviction may be had, but no fine shall be imposed exceeding two thousand five hundred dollars, nor imprisonment or confinement at hard labor exceeding six months.

29. To adopt ordinances for the government of the corporation, its officers and persons within its corporate limits needful for the good government and order of the municipalities, and to provide the manner of prosecution and define the punishment for the violation of such ordinance.

## **TITLE 13. CRIMINAL CODE**

### **CHAPTER 23. ORGANIZED CRIME AND FRAUD**

#### **13-2103 . Receipt of anything of value obtained by fraudulent use of a credit card; classification**

A. A person, being a third party, commits receipt of anything of value obtained by fraudulent use of a credit card by buying or receiving or attempting to buy or receive money, goods, services or any other thing of value obtained in violation of section 13-2105, knowing or believing that it was so obtained.

B. Receipt of anything of value obtained by fraudulent use of a credit card is a class 1 misdemeanor if the value of the property bought or received or attempted to be bought or received is less than two hundred fifty dollars. If the value of the property bought or received or attempted to be bought or received is two hundred fifty dollars or more but less than one thousand dollars the offense is a class 6 felony. If the value of the property bought or received or attempted to be bought or received is one thousand dollars or more the offense is a class 5 felony. Amounts obtained by fraudulent use of a credit card pursuant to one scheme or course of conduct, whether from one or several persons, may be aggregated in determining the classification of offense.

### **CHAPTER 29. OFFENSES AGAINST PUBLIC ORDER**

#### **13-2905 . Loitering; classification**

A. A person commits loitering if such person intentionally:

1. Is present in a public place and in an offensive manner or in a manner likely to disturb the public peace solicits another person to engage in any sexual offense; or

2. Is present in a transportation facility and after a reasonable request to cease or unless specifically authorized to do so solicits or engages in any business, trade or commercial transactions involving the sale of merchandise or services; or

3. Is present in a public place to beg, unless specifically authorized by law; or

4. Is present in a public place, unless specifically authorized by law, to gamble with any cards, dice or other similar gambling devices; or

5. Is present in or about a school, college or university building or grounds after a reasonable request to leave and either does not have any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there or does not have written permission to be there from anyone authorized to grant permission.

B. Loitering under subsection A, paragraph 5 is a class 1 misdemeanor. Loitering under subsection A, paragraphs 1, 2, 3 and 4 is a class 3 misdemeanor.

## **CHAPTER 30. EAVESDROPPING AND COMMUNICATIONS**

### **13-3010 . Ex parte order for interception; definition**

A. An ex parte order for interception of wire, electronic or oral communications may be issued by any justice of the supreme court, judge of the court of appeals or judge of the superior court upon application of a county attorney or the attorney general or such prosecuting attorneys as they may designate in writing, along with the supporting oath or affirmation of the investigating peace officer of the state or of any political subdivision of the state, where there is probable cause to believe that a crime has been, is being or is about to be committed, and there is probable cause to believe that evidence of such crime or the location of a fugitive from justice from that crime may be obtained by interception.

B. An application under subsection A shall be made in writing and upon the oath or affirmation of the applicant. It shall include:

1. The name and title of the applicant.

2. A full and complete statement of the facts and circumstances relied upon by the applicant, including the supporting oath or affirmation of the investigating peace officer to justify the officer's belief that an order should be issued, including:

(a) Details as to the particular crime that has been, is being or is about to be committed.

(b) The identity of the person, if known, committing the offense and whose communications are to be intercepted.

(c) A particular description of the type of communications sought to be intercepted.

(d) A particular description of the nature, identification and location of the communication facility from which or the place where the communication is to be intercepted.

If the identification or specific description of the communication facility from which or the place where the communication is to be intercepted is not practical, the affidavit in support of the application must state the reasons why such specification is impractical, and the reasons why interception from any facility or at any place where the communication may occur is necessary.

3. A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

4. A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that authorization to intercept should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

5. A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of

interceptions of communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application.

6. Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

C. Upon proper application, a judge may enter an ex parte order, as requested or with any appropriate modifications, authorizing interception if he determines on the basis of the facts submitted by the applicant that:

1. There is probable cause to believe that a person is committing, has committed, or is about to commit a particular crime included within subsection A.

2. There is probable cause to believe that particular communications concerning that offense will be obtained through such interception.

3. Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous.

4. There is probable cause to believe any of the following:

(a) Wire or electronic communications concerning the offense are being made or are about to be made by the person over the communication facilities for which interception authority is granted.

(b) Oral communications concerning the offense are being made or are about to be made by the person in the location for which interception authority is granted.

(c) Communications concerning the offense are being made or are about to be made by the person in different and changing locations, or from different and changing facilities.

D. Each order authorizing the interception of any wire, electronic or oral communication shall specify:

1. The identity of the person, if known, whose communications are to be intercepted.

2. The nature and location of the communication facilities as to which, or the place where, authority to intercept is granted. If authority is granted to intercept communications of a person wherever that person is located or from whatever communication facility is used, the order shall so state and shall include any limitations imposed by the authorizing judge as to location, time or manner of the interception. The order shall state that the interception shall not begin until the facilities from which or the place where the communication is to be intercepted is ascertained by the person implementing the interception order.

3. A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates.

4. The identity of the agency authorized to intercept the communications, and of the person authorizing the application.

5. The period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

6. That the authorization for interception be executed as soon as practicable, that it be conducted in such a way as to minimize interception of communications not otherwise subject to interception under this section and that it shall terminate upon attainment of the authorized objective or on the date specified, whichever comes first.

7. That entry may be made to service, install or remove interception devices or equipment, if such entry is necessary to effect the interception.

E. No order entered under this section may authorize the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, in any event no longer than thirty days. This thirty day period begins on the earlier of the day on which the interception actually begins under the order or ten days after the order is signed. Extensions of any order may be granted, but only upon application for an extension made in accordance with subsection A and the court making the findings required by subsection C. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days.

F. Any ex parte order for interception, together with the papers upon which the application was based, shall be delivered to and retained by the applicant during the duration of the interception as authority for the interception authorized therein. A true copy of such order shall at all times be retained by the judge or justice issuing the order.

G. After the termination of the authorized interception, applications made and orders granted under this statute shall within ten days be returned to and sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction or as otherwise provided.

H. The contents of any communication intercepted by any means authorized by this statute shall, if possible, be recorded on tape, electronic, wire or other comparable device. The recording of the contents of any wire, electronic or oral communication under this subsection shall be done in such a way as will protect the recording from editing or alterations. Within ten days after the termination of the authorized interception, such recordings shall be made available to the judge issuing such order and sealed under the judge's directions. Custody of the recordings shall be maintained pursuant to court order. The recordings shall not be destroyed except on an order of the issuing judge or other judge of competent jurisdiction and in any event shall be kept for ten years.

I. Within ninety days after an application under subsection A is denied, or the period of an order or extensions thereof expires, the issuing or denying judge shall cause the persons named in the order or application, and such other parties to intercepted communications as the judge may determine the interests of justice require, to be served with an inventory including notice of all of the following:

1. The fact of the entry of the order or the application.
2. The date of the entry and the period of authorized interception, or the denial of the application.
3. The fact that during the period wire, electronic or oral communications were or were not intercepted. On motion, the judge may in the judge's discretion make available to such person or the person's counsel for inspection such portions of the intercepted communications, applications and order as the judge determines to be in the interest of justice. On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed.

J. Any order authorizing interception shall, upon the request of the applicant, direct that the communication service provider, landlords, custodians or other persons furnish the applicant with all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such persons are according the person whose communications are to be intercepted.

K. The order may require written reports to be made to the issuing judge at specified intervals showing the progress made toward achieving the authorized objective and the need for continued interception.

L. Any order authorizing interception of wire communications pursuant to this chapter is also deemed to authorize interception of any electronic communication which may be made over the same equipment or by the same facility.

M. If the intercepted communication is in a code or foreign language and an expert in that code or foreign language is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception.

N. An interception under this chapter may be conducted in whole or in part by government personnel or by an individual operating under a contract with the government or acting under the supervision of a law enforcement officer authorized to conduct the interception.

O. The applicant is responsible for providing to the administrative office of the United States courts all reports on applications for or interception of wire, electronic or oral communications required by federal statutes.

P. For the purposes of this section, "crime" means murder, gaming, kidnapping, robbery, bribery, extortion, theft, offenses defined in chapter 23 of this title, dealing in narcotic drugs, marijuana or dangerous drugs or any felony that is dangerous to life, limb or property or any conspiracy to commit any of the offenses listed in this subsection.

### **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 electromechanical 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.

#### **13-3303 . 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.

#### **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.

#### **13-3305 . Betting and wagering; classification**

A. Subject to the exceptions contained in section 5-112, no person may engage for a fee, property, salary or reward in the business of accepting, recording or registering any bet, purported bet, wager or purported wager or engage for a fee, property, salary or reward in the business of selling wagering pools or purported wagering pools with respect to the result or purported result of any race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever.

B. A person shall not directly or indirectly knowingly accept for a fee, property, salary or reward anything of value from another to be transmitted or delivered for wagering or betting on the results of a race, sporting event, contest or other game of skill or chance or any other unknown or contingent future event or occurrence whatsoever conducted within or without this state or anything of value as reimbursement for the prior making of such a wager or bet on behalf of another person.

C. A person who violates this section is guilty of a class 6 felony.

#### **13-3306 . Possession of a gambling device; classification**

A. A person commits possession of a gambling device if he knowingly possesses any implement, machine, paraphernalia, equipment or other thing which 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 he knowingly possesses any implement, machine, paraphernalia, equipment or other thing which the person knows or has reason to know is used or intended to be used for gambling other than amusement, social or regulated gambling.

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.

#### **13-3307 . Possession of gambling records; classification**

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

#### **13-3308 . Presumption**

In a prosecution under this chapter in which it is necessary to prove the occurrence of any event that is the subject of gambling, a published report of its occurrence in a daily newspaper, a magazine or any other periodically printed publication of general circulation is admissible into evidence and, on admission, it is presumed that the event occurred. This presumption may be rebutted. Either party may use additional evidence to prove or disprove the occurrence of the event.

#### **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.

### **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.

### **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.

### **13-3312 . Crane games; prohibited acts; classification**

A. It is unlawful for a person to knowingly cause or commit the following actions:

1. Altering or maintaining a crane game so that the claw is physically unable to grasp exposed prizes.
  2. Displaying prizes in a crane game in a manner so that the claw is physically incapable of grasping exposed prizes.
  3. Misrepresenting the value of prizes in crane games.
  4. Using cash or currency as prizes in crane games or awarding prizes in crane games which are redeemable for cash or currency.
- B. A person who violates this section is guilty of a class 1 misdemeanor.

**TITLE 15. EDUCATION**  
**CHAPTER 3. LOCAL GOVERNANCE OF SCHOOLS**  
**ARTICLE 3. POWERS AND DUTIES OF SCHOOL DISTRICT GOVERNING BOARDS**  
**15-342 . Discretionary powers**

The governing board may:

1. Expel pupils for misconduct.
2. Exclude from grades one through eight children under six years of age.
3. Make such separation of groups of pupils as it deems advisable.
4. Maintain such special schools during vacation as deemed necessary for the benefit of the pupils of the school district.
5. Permit a superintendent or principal or his representatives to travel for a school purpose, as determined by a majority vote of the board. The board may permit members and members-elect of the board to travel within or without the school district for a school purpose and receive reimbursement. Any expenditure for travel and subsistence pursuant to this paragraph shall be as provided in title 38, chapter 4, article 2. The designated post of duty referred to in section 38-621 shall be construed, for school district governing board members, to be the member's actual place of residence, as opposed to the school district office or the school district boundaries. Such expenditures shall be a charge against the budgeted school district funds. The governing board of a school district shall prescribe procedures and amounts for reimbursement of lodging and subsistence expenses. Reimbursement amounts shall not exceed the maximum amounts established pursuant to section 38-624, subsection C.
6. Construct or provide in rural districts housing facilities for teachers and other school employees which the board determines are necessary for the operation of the school.
7. Sell or lease to the state, county or city any school property required for a public purpose, provided the sale or lease of the property will not affect the normal operations of a school within the school district.
8. Annually budget and expend funds for membership in an association of school districts within this state.
9. Enter into leases or lease-purchase agreements for school buildings or grounds, or both, as lessor or as lessee, for periods of less than five years subject to voter approval for construction of school buildings as prescribed in section 15-341, subsection A, paragraph 8.
10. Sell school sites or enter into leases or lease-purchase agreements for school buildings and grounds, as lessor or as lessee, for a period of five years or more, but not to exceed ninety-nine years, if authorized by vote of the school district electors in an election called by the governing board as provided in section 15-

491, except that if the market value of the school property is less than fifty thousand dollars authorization by the school district electors in an election is not required.

11. Review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school. Notwithstanding title 38, chapter 3, article 3.1, the governing board shall review the decision of a teacher to promote a pupil to a grade or retain a pupil in a grade in a common school or to pass or fail a pupil in a course in high school in executive session unless a parent or legal guardian of the pupil or the pupil, if emancipated, disagrees that the review should be conducted in executive session and then the review shall be conducted in an open meeting. If the review is conducted in executive session, the board shall notify the teacher of the date, time and place of the review and shall allow the teacher to be present at the review. If the teacher is not present at the review, the board shall consult with the teacher before making its decision. Any request, including the written request as provided in section 15-341, the written evidence presented at the review and the written record of the review, including the decision of the governing board to accept or reject the teacher's decision, shall be retained by the governing board as part of its permanent records.

12. Provide transportation or site transportation loading and unloading areas for any child or children if deemed for the best interest of the district, whether within or without the district, county or state.

13. Enter into intergovernmental agreements and contracts with school districts or other governing bodies as provided in section 11-952.

14. Include in the curricula which it prescribes for high schools in the school district vocational and technological education programs and vocational and technological program improvement services for the high schools, subject to approval by the state board of education. The governing board may contract for the provision of vocational and technological education as provided in section 15-789.

15. Suspend a teacher or administrator from his duties without pay for a period of time of not to exceed ten school days, if the board determines that suspension is warranted pursuant to section 15-341, subsection A, paragraphs 23 and 24.

16. Dedicate school property within an incorporated city or town to such city or town or within a county to that county for use as a public right-of-way if both of the following apply:

(a) Pursuant to an ordinance adopted by such city, town or county, there will be conferred upon the school district privileges and benefits which may include benefits related to zoning.

(b) The dedication will not affect the normal operation of any school within the district.

17. Enter into option agreements for the purchase of school sites.

18. Donate surplus or outdated learning materials to nonprofit community organizations where the governing board determines that the anticipated cost of selling the learning materials equals or exceeds the estimated market value of the materials.

19. Prescribe policies for the assessment of reasonable fees for students to use district-provided parking facilities. The fees are to be applied by the district solely against costs incurred in operating or securing the parking facilities. Any policy adopted by the governing board pursuant to this paragraph shall include a fee waiver provision in appropriate cases of need or economic hardship.

20. Establish alternative educational programs that are consistent with the laws of this state to educate pupils, including pupils who have been reassigned pursuant to section 15-841, subsection E or F.

21. Require a period of silence to be observed at the commencement of the first class of the day in the schools. If a governing board chooses to require a period of silence to be observed, the teacher in charge of the room in which the first class is held shall announce that a period of silence not to exceed one minute in

duration will be observed for meditation, and during that time no activities shall take place and silence shall be maintained.

22. Require students to wear uniforms.

23. Exchange unimproved property or improved property, including school sites, where the governing board determines that the improved property is unnecessary for the continued operation of the school district without requesting authorization by a vote of the school district electors if the governing board determines that the exchange is necessary to protect the health, safety or welfare of pupils or when the governing board determines that the exchange is based on sound business principles for either:

(a) Unimproved or improved property of equal or greater value.

(b) Unimproved property that the owner contracts to improve if the value of the property ultimately received by the school district is of equal or greater value.

24. For common and high school pupils, assess reasonable fees for optional extracurricular activities and programs conducted when the common or high school is not in session, except that no fees shall be charged for pupils' access to or use of computers or related materials. For high school pupils, the governing board may assess reasonable fees for fine arts and vocational education courses and for optional services, equipment and materials offered to the pupils beyond those required to successfully complete the basic requirements of any other course, except that no fees shall be charged for pupils' access to or use of computers or related materials. Fees assessed pursuant to this paragraph shall be adopted at a public meeting after notice has been given to all parents of pupils enrolled at schools in the district and shall not exceed the actual costs of the activities, programs, services, equipment or materials. The governing board shall authorize principals to waive the assessment of all or part of a fee assessed pursuant to this paragraph if it creates an economic hardship for a pupil. For the purposes of this paragraph, "extracurricular activity" means any optional, noncredit, educational or recreational activity which supplements the education program of the school, whether offered before, during or after regular school hours.

25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10, construct school buildings and purchase school sites, without a vote of the school district electors, if the buildings and sites are totally funded from one or more of the following:

(a) Until June 30, 1999, monies in the capital outlay fund or in the plan for the use of the reserve of the capital outlay fund, and from and after June 30, 1999, monies in the unrestricted capital outlay fund, except that the estimated cost shall not exceed two hundred fifty thousand dollars for a district that utilizes the provisions of section 15-949.

(b) Monies distributed from the school facilities board established by section 15-2001.

(c) Monies specifically donated for the purpose of constructing school buildings.

Nothing in this paragraph shall be construed to eliminate the requirement for an election to raise revenues for a capital outlay override pursuant to section 15-481 or a bond election pursuant to section 15-491.

26. Conduct a background investigation that includes a fingerprint check conducted pursuant to section 41-1750, subsection G for certificated personnel and personnel who are not paid employees of the school district, as a condition of employment. A school district may release the results of a background check to another school district for employment purposes. The school district may charge the costs of fingerprint checks to its fingerprinted employee, except that the school district may not charge the costs of fingerprint checks for personnel who are not paid employees of the school district.

27. Sell advertising space on the exterior of school buses as follows:

- (a) Advertisements shall be age appropriate and not contain promotion of any substance that is illegal for minors such as alcohol, tobacco, drugs or gambling. Advertisements shall comply with the state sex education policy of abstinence.
- (b) Advertising approved by the governing board may appear only on the sides of the bus in the following areas:
- (i) The signs shall be below the seat level rub rail and not extend above the bottom of the side windows.
  - (ii) The signs shall be at least three inches from any required lettering, lamp, wheel well or reflector behind the service door or stop signal arm.
  - (iii) The signs shall not extend from the body of the bus so as to allow a handhold or present a danger to pedestrians.
  - (iv) The signs shall not interfere with the operation of any door or window.
  - (v) The signs shall not be placed on any emergency doors.
- (c) Establish a school bus advertisement fund that is comprised of revenues from the sale of advertising space on school buses. The monies in a school bus advertisement fund are not subject to reversion and shall be used for the following purposes:
- (i) To comply with the energy conservation measures prescribed in section 15-349 in school districts that are in area A as defined in section 49-541, and any remaining monies shall be used to purchase alternative fuel support vehicles and any other pupil related costs as determined by the governing board.
  - (ii) For any pupil related costs as determined by the governing board in school districts not subject to the provisions of item (i) of this subdivision.

**TITLE 21. JURIES**  
**CHAPTER 4. GRAND JURIES**  
**ARTICLE 2. STATE GRAND JURY**  
**21-422 . Powers and duties**

- A. The law applicable to county grand juries, including their powers, duties and functions, shall apply to the state grand juries except insofar as it is in conflict with this article. The Arizona supreme court shall promulgate rules and regulations to govern the procedures of state grand juries.
- B. The state grand jury shall investigate and return indictments for only those offenses or violations of law:
- 1. Arising out of or in connection with the determination or collection of state taxes, the registration or failure to register securities, the offer or sale of securities, the offer or sale of interests in land, the formation or operation of banks, insurance companies, pension funds, labor unions, professional sports enterprises, corporate enterprises, or business enterprises, the making or collecting of loans, events leading to receivership or declaration of bankruptcy by a business enterprise, the sale or purchase of goods or services by or for the state or political subdivisions, bribery, obstruction of justice, hindering prosecution or any form of intentional, knowing or corrupt misconduct involving any person compensated by public funds; or
  - 2. Arising out of or in connection with any fraud, theft or possession, receipt, sale or transportation of stolen property or other contraband, or gambling or prostitution or narcotics, which occurs in more than one county or which occurs in one county and affects the residents of another county or which may be prosecuted by more than one county attorney; or
  - 3. Arising out of or in connection with perjury, false swearing, unsworn falsification, or any violation of title 13, chapter 28 in connection with any state grand jury proceeding, committed by any person testifying before it or in any trial or other proceeding involving any indictment returned by a state grand jury; or
  - 4. Arising out of or in connection with any perjury by subornation or attempted perjury by subornation relating to testimony before it or in any trial or other proceeding involving any indictment returned by a state grand jury; or

5. Arising out of or in connection with any violation of title 13, chapter 23 or section 38-421 or 39-161.

C. If a state grand jury, pursuant to an investigation under subsection B of this section, learns of an offense for which it lacks jurisdiction to indict, the grand jury shall direct the attorney general to inform the appropriate prosecutorial authority.

D. Nothing in this article shall be construed to limit the jurisdiction of the county grand juries or county attorneys, nor shall an investigation by a state grand jury be deemed preemptive of a previously instituted investigation by another grand jury or agency having jurisdiction under the same subject matter unless good cause is shown.

**TITLE 38 PUBLIC OFFICERS AND EMPLOYEES**  
**CHAPTER 3. CONDUCT OF OFFICE**  
**ARTICLE 8. CONFLICT OF INTEREST OF OFFICERS AND EMPLOYEES**  
**38-504 . Prohibited acts**

A. No public officer or employee may represent another person for compensation before a public agency by which he is or was employed within the preceding twelve months or on which he serves or served within the preceding twelve months concerning any matter with which such officer or employee was directly concerned and in which he personally participated during his employment or service by a substantial and material exercise of administrative discretion.

B. During the period of his employment or service and for two years thereafter, no public officer or employee may disclose or use for his personal profit, without appropriate authorization, any information acquired by him in the course of his official duties which has been clearly designated to him as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business. No public officer or employee shall disclose or use, without appropriate authorization, any information acquired by him in the course of his official duties which is declared confidential by law.

C. No public officer or employee may use or attempt to use his official position to secure any valuable thing or valuable benefit for himself that would not ordinarily accrue to him in the performance of his official duties, which thing or benefit is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

D. Notwithstanding subsection A, neither the director of the department of gaming nor any other employee of the department of gaming may be employed within the gaming industry or represent another person for compensation before the department of gaming for a period of two years from the last day of the person's employment with the department of gaming.

**TITLE 40. PUBLIC UTILITIES AND CARRIERS**  
**CHAPTER 4. RAILROADS**  
**ARTICLE 1. ORGANIZATION, GENERAL POWERS AND DUTIES**  
**40-809 . Specific powers of railroad corporations**

A. Railroad corporations may:

1. Make surveys and select routes for railroad and telegraph lines, and for that purpose, enter upon private and public lands and waters, subject to responsibility for all damage caused thereby.

2. Lay out the railroad not exceeding two hundred feet wide, and construct and maintain it with single or double track, with facilities the directors deem necessary for the convenient use thereof.

3. Construct the railroad and telegraph lines across, along or upon any stream of water, water-course, street or highway, or across any railway, canal, ditch or flume which the lines intersect, cross or run along. The

corporation shall restore them to their former state as near as possible in order not to impair their use or injure the franchises of others unnecessarily.

4. Cross, intersect or unite the railroad with any other railroad theretofore constructed at any points on the route thereof, and upon the premises of the other railroad, with the turn-out, sidings, switches and other conveniences necessary to make and complete the intersections and connections. The railroads shall unite in making the intersections and connections and the facilities therefor upon terms agreed upon between them, but, if they are unable to agree upon the compensation therefor, or the points at which, or the manner in which the intersections and connections shall be made, the compensation shall be ascertained and declared in the manner provided by law relating to eminent domain for taking private property for use of such corporations.

5. Take lands and materials to be used in the construction and maintenance of railroad and telegraph lines in the manner provided by law relating to eminent domain in the event such lands and materials cannot be obtained by agreement with the owners thereof.

6. Transport persons and property on their railroad and collect compensation therefor.

7. Take and enjoy by purchase, donation or condemnation as provided by law relating to eminent domain, natural springs and streams of water, or as much thereof as necessary in operating the railroad, together with the right of way thereto for pipes, ditches, canals and aqueducts for transporting the water thereof.

8. Regulate the speed of locomotives or other machinery used on the railroad, and establish, execute and enforce all useful regulations for management of its trains and business, and for securing the comfort, safety and good behavior of passengers, employees and agents, and for prevention and suppression of gambling on its cars.

9. Expel from its cars, using no more force than necessary, any passenger who upon demand refuses to pay his fare or who behaves in a rude, riotous or disorderly manner toward other passengers or the employees of the corporation in charge of the cars, or, upon his attention being called thereto, persists in violating the rules of the corporation against gambling on the cars.

B. For the purposes of making embankments, excavations, ditches, drains, culverts and similar works, and of procuring timber, stone, gravel and other materials for the construction and security of the railroad, the corporation may take and occupy as much more land as necessary or convenient for such purposes.

C. If a railroad company's right of way, track or roadbed upon its right of way passes through a canyon, pass or defile, it shall not prevent any other railroad from occupancy and use of the canyon, pass or defile in common with the railroad first located, or the crossing of other railroads at grades. Necessary expenses shall be equitably divided between the railroads occupying and using the same canyon, pass or defile.

**TITLE 41. STATE GOVERNMENT  
CHAPTER 6. ADMINISTRATIVE PROCEDURE  
ARTICLE 3. RULE MAKING**

**41-1030 . Invalidity of rules not made according to this chapter; prohibited agency action**

A. A rule is invalid unless it is made and approved in substantial compliance with sections 41-1021 through 41-1029, section 41-1036 and articles 4, 4.1 and 5 of this chapter, unless otherwise provided by law.

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

C. An agency shall not:

1. Make a rule under a specific grant of rule making authority that exceeds the subject matter areas listed in the specific statute authorizing the rule.
2. Make a rule under a general grant of rule making authority to supplement a more specific grant of rule making authority.

**CHAPTER 27. LEGISLATIVE REVIEW OF AGENCIES**  
**ARTICLE 2. TERMINATION OF AGENCIES**  
**41-3000.26 . Arizona department of gaming; termination July 1, 2000**

- A. The department of gaming terminates on July 1, 2000.
- B. Title 5, chapter 6 is repealed on January 1, 2001.

**TITLE 43. TAXATION OF INCOME**  
**CHAPTER 2. ADMINISTRATION**  
**ARTICLE 1. GENERAL ADMINISTRATIVE PROVISIONS**  
**43-207 . Illegal income; duty of law enforcement or prosecuting agency; distribution of revenue; definitions**

A. Whenever state or local law enforcement agency personnel in the course of an investigation obtain knowledge or a good faith belief that a person has received illegal income with an estimated value in excess of one thousand dollars, the person in charge of the investigation shall provide identifying information to the department. The law enforcement agency shall cooperate fully with the department in providing the department with information regarding the illegal income. Such cooperation and identifying information shall include but is not limited to the provision of names, addresses, the identity and location of income sources, and the identity and location of assets.

B. Whenever any person prosecuting a person on behalf of the state obtains information in the course of the prosecution which information shows that the person being prosecuted has received or may have received illegal income in excess of one thousand dollars and it appears that the information has not been previously reported to the department, the prosecutor shall immediately provide identifying information to the department. The prosecutor shall cooperate fully with the department in providing information regarding the person and amount of illegal income received.

C. The monies collected in taxes as a result of information provided to the department under this section shall be deposited in the state general fund.

D. For the purposes of this section:

1. "Illegal income" means any economic benefit of money or property of any kind derived from any unlawful activity, including but not limited to theft, robbery, forgery, bribery, prostitution, gambling, fraud, or unlawful sales.

2. "State or local law enforcement agency" means the department of public safety, county sheriff departments, and municipal police departments.

**TITLE 44. TRADE AND COMMERCE**  
**CHAPTER 8. TRANSACTIONS AND TRANSFERS AFFECTING THE INTEREST OF CREDITORS**  
**ARTICLE 3. ASSIGNMENTS FOR THE BENEFIT OF CREDITORS**  
**44-1047 . Fraudulent transactions by assignor; classification**

A. A person who makes an assignment for the benefit of creditors is guilty of a crime punishable as prescribed in subsection B, if he:

1. Secretes or conceals any property belonging to his estate, or parts with, conceals, destroys, alters, mutilates or falsifies a book, document or writing relating to such property or estate, or removes such property, book, document or writing, with intent to prevent it or any part thereof from coming into possession of the assignee or to hinder, impede or delay the assignee in recovering or receiving such property or book, document or writing.
  2. Makes any payment, gift, sale, assignment, transfer or conveyance of any property belonging to his estate with intent to prevent it from coming into possession of the assignee or to hinder, impede or delay the assignee in recovering or receiving such property.
  3. Spends any property belonging to his estate in gaming.
  4. Knowingly and with the intent to defraud omits from his schedule any property or effects.
  5. Has knowledge or belief of a false or fictitious debt proved against his estate and fails to disclose such knowledge or belief to his assignee within one month after acquiring such knowledge or belief.
  6. Attempts by fictitious losses or expenses to account for any property belonging to his estate.
  7. Within three months before making the assignment for the benefit of creditors, under the false pretense of carrying on business and dealing in the ordinary course of trade, obtains on credit, with intent to defraud, goods or chattels from any person.
  8. Within three months before making the assignment for the benefit of creditors, with intent to defraud his creditors, pawns, pledges or disposes of, otherwise than by ordinary transactions in due course of business, any goods or chattels obtained on credit and which are unpaid for.
  9. Previous to and in contemplation of making an assignment for the benefit of creditors, transfers any property with intent or design to defraud creditors.
- B. A person violating any provision of subsection A is guilty of a class 6 felony.