

CORPORATE RECORDS INSPECTION

Part 3: California Attorney General Nonprofit Raffle Registration and Report

Alena Herranen, Attorney at Law
www.herranenlaw.com
August 31, 2011

Get your raffle tickets! Many valuable prizes! The more you buy, the better your chances. Proceeds will be used for a good cause!

Sounds tempting, but is it legal? Maybe.

The general rule is that conducting raffles in the State of California is a misdemeanor under California Penal Code Section 320 punishable by imprisonment in the county jail for up to six months, by fine not exceeding one thousand dollars, or by both. This should not come as a surprise. Raffles have been illegal in California for over 100 years. When the California Constitution was first written in 1849, Article IV, Section 27 stated, “No lottery shall be authorized by this State, nor shall the sale of lottery tickets be allowed.” The term “lottery” includes raffles as we know them.ⁱ

However, things have changed since 1849. The California Constitution has been amended more than 500 times and has become the third longest constitution in the world. It is now eight times longer than the U.S. Constitution. Among the many amendments were several exceptions to the “no lottery” rule.

While the California Constitution still contains a general prohibition against lotteries in the state,ⁱⁱ Section 19(d) specifically authorizes the establishment of a California State Lotteryⁱⁱⁱ, Section 19(c) specifically authorizes bingo games for charitable purposes, and Section 19(f) (second paragraph), specifically authorizes raffles conducted by eligible organizations for a charitable purpose effective July 1, 2001.^{iv}

“Ah ha! So, all is well,” you may say. Not necessarily. The raffle exception is not a blanket approval of all raffles. Instead, it is a very limited authorization for some organizations to conduct raffles for certain purposes provided they comply with all of the requirements set forth in the California Penal Code.

What Are the Raffle Requirements?

The raffle requirements are set forth in California Penal Code, Section 320.5 and California Code of Regulations, Title 11, Sections 410-426. They include the following:

1. The organization conducting the raffle must be an “eligible organization”.

An “eligible organization” is defined as: “a private, nonprofit organization that has been qualified to conduct business in California for at least one year prior to conducting a raffle and is exempt from taxation pursuant to Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the Revenue and Taxation Code.”^v

2. At least ninety percent (90%) of the gross receipts from the raffle must go directly to the beneficial or charitable purpose in California.^{vi}

"Beneficial purposes" excludes purposes that are intended to benefit officers, directors, or members of the eligible organization. Further, funds may not be used for any purpose outside of California.

The ninety percent rule means that organizations may not use the proceeds from ticket sales to acquire prizes for the raffles. For example, if the prize is a scenic biplane ride, the organization must pay for the ride from other funds or have the ride donated to the organization. Organizations are not precluded from using funds from sources other than the sale of raffle tickets to pay for the administration or other costs of conducting a raffle. Typically, members of the organization or the general public will donate prizes or money to obtain prizes so that the raffle proceeds can be used exclusively for charitable purposes.

3. Each ticket sold must have a detachable coupon or stub and both the ticket and stub must be marked with a unique and matching identifier.
4. Winners of the prizes are determined by draw from among the coupons or stubs that have been detached from all tickets sold for entry in the draw.
5. The draw is conducted in California under the supervision of a natural person who is 18 years of age or older.
6. Any person who receives compensation in connection with the operation of the raffle must be an employee of the eligible organization that is conducting the raffle, and in no event may compensation be paid from the revenues dedicated to the charitable purposes.
7. The raffle may not be conducted by means of a gaming machine.
8. The raffle may not be conducted within an operating satellite wagering facility or racetrack or licensed gaming establishment.
9. The raffle may not be conducted over the Internet nor may tickets be sold over the Internet.

However, raffles may be advertised over the Internet.

10. No person or entity shall hold a financial interest in the conduct of a raffle except the eligible organization.
11. The eligible organization must register the raffles it conducts annually with the Department of Justice.

To register a raffle, the organization must complete and file Form CT-NRP-1 with the Department of Justice, Office of the Attorney General. The organization must provide the proposed dates of raffles, and the form must be filed by September 1st of each year or at least 60 days before the raffle is held.^{vii} The annual registration period is from September 1 to August 31 of each year. This form can be completed online at http://ag.ca.gov/charities/forms/raffle/nrp_1.pdf.

The organization may not conduct any raffle activities, including the sale of tickets, until it receives a confirmation letter from the Attorney General.

12. The eligible organization must pay the annual registration fee to the Department of Justice.

The annual registration fee is twenty dollars (\$20) at this time. If the raffle spans two registration periods, the organization must register and pay for both periods. For example, if the sale of raffle tickets begins in August and the winner is announced in December, this would span two raffle registration periods.

13. The eligible organization must file a raffle report.

At the conclusion of the raffle period, the organization is required to file a raffle report on Form CT-NRP-2 for each raffle that it conducted during the year. The raffle reports are due on September 1st of each year and must include the date and location of the raffle, funds received from the sale of tickets, expenses for conducting the raffle, the source of funds applied toward the expenses and certification statements. This form can be completed online at http://ag.ca.gov/charities/forms/raffle/nrp_2.pdf.

Are There Any Exemptions?

The raffle registration and reporting requirements do not apply to all nonprofit organizations. Specifically, they do not apply to any religious organizations, educational institutions, hospitals or health care service plans.^{viii} However, these organizations must nevertheless comply with all other provisions of the California Penal Code Section 320.5.

Furthermore, any nonprofit organization that wishes to avoid the complications listed above, may conduct an exempt raffle. Typically an exempt raffle would not be held for fundraising purposes

because tickets must be distributed indiscriminately and without requiring a donation. California Penal Code, Section 320.5(m) provides that a raffle is exempt from these requirements if:

1. It involves a general and indiscriminate distribution of the tickets.
2. The tickets are offered on the same terms and conditions as the tickets for which a donation is given.
3. The scheme does not require any of the participants to pay for a chance to win.

Can We Check if an Organization is Registered?

To check if an organization is registered for a raffle, you should visit the website of the Office of the Attorney General at <http://oag.ca.gov/charities>. Click on the “Registry Search” link in the right-hand column. Type in the organization name accurately and click on “Search.” If the organization does not appear, check your spelling and the accuracy of the corporate name. If the organization uses a Fictitious Business Name, type the name in the space labeled “DBA.” The search results should show the name of the organization and the type of registration. Click on the “Raffle” registration to view the confirmation letter and the details of the registration.

If you have questions or concerns about raffles, feel free to contact me or research the websites provided below.



For more information:

California Attorney General
www.doj.ca.gov
Form CT-NRP-1
http://ag.ca.gov/charities/forms/raffle/nrp_1.pdf
Form CT-NRP-2
http://ag.ca.gov/charities/forms/raffle/nrp_2.pdf
California Laws
www.leginfo.ca.gov
Alena Herranen
alena@herranenlaw.com

ⁱ Cal. Penal Code, Section 319.

ⁱⁱ Cal. Const. Article IV, Section 19(a).

ⁱⁱⁱ The Constitutional lottery provision was authorized on November 6, 1984 with the approval of Proposition 37. More detailed provisions on conducting state lotteries are set forth in Cal. Government Code, Section 8880-8880.5.

^{iv} Raffles were approved by Proposition 17 on March 7, 2000.

^v California Penal Code, Section 320.5(c).

^{vi} Cal. Penal Code, Section 320.5(b)(4)(A).

^{vii} Cal. Code of Regulations, Title 11, Div 1 Chap. 4.6, Section 417

^{viii} Cal. Penal Code, Section 320.5(h)(8).