

NONPROFIT GAMING REGULATION



**OREGON DEPARTMENT OF JUSTICE
CHARITABLE ACTIVITIES SECTION**

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Nonprofit Gaming and DOJ Oversight



- Nonprofit gaming program is small and operated in conjunction with Department's broader program of charitable oversight.
- Approximately 3 FTE.
- Expenses of program covered by licensing fees and small percentage of gaming revenues or "handle."
- Annual budget approximately \$ 300,000.

Historical Background



- Constitutional amendment in 1976 to general prohibition against lotteries to allow nonprofit organizations to engage in bingo.
- Later amended in 1986 to allow raffles.
- Specifically, Article XV, Section 4(2) provides:
 - The Legislative Assembly may provide for the establishment, operation, and regulation of raffles and the lottery commonly known as bingo or lotto by charitable, fraternal, or religious organizations. As used in this section, charitable, fraternal or religious organization means such organizations or foundations as defined by law because of their charitable, fraternal, or religious purposes. The regulations shall define eligible organizations or foundations, and may prescribe the frequency of raffles, bingo or lotto, set a maximum monetary limit for prizes and require a statement of the odds on winning a prize. The Legislative Assembly shall vest the regulatory authority in any appropriate state agency.

Historical Background



- Initial period of misuse and other problems with Bingo led to enactment of more restrictive regulation and placement of program with the Department of Justice. Basic regulatory framework has been in place since approximately 1987.
- Framework limits the participation of for-profit interests.
- Monte Carlo, also referred to as casino nights, added in mid 1990s

Nonprofit Gaming Statistics



- Revenues from nonprofit gaming have decreased as other types of gaming have increased, due to decline in Bingo.
 - Bingo Handle
 - ✦ 1996 - \$81 million, net to charity, \$8.4 million
 - ✦ 2019 - \$20 million, net to charity \$3.3. million
 - Raffle Handle
 - ✦ 1996 - \$4.3 million, net to charity, \$2.4 million
 - ✦ 2019 - \$11 million, net to charity \$ 7.5 million
 - Monte Carlo
 - ✦ Annual Handle generally less than \$500,000
 - ✦ Generally used for entertainment at event, rather than funding source.
- Starting to bounce back from pandemic, but may not fully recover.

Nonprofit Gaming Statistics



- More than 23,000 registered charities in Oregon. Relatively small number engaged in significant gaming activity.
- Bingo – Approximately 130 licensees
- Raffle – Approximately 300 licensees
- Monte Carlo – Approximately 50 licensees

Overview of Regulation



- ORS 167.117 and 167.118 sets forth exemption from criminal statutes prohibiting unlawful gambling for nonprofit organizations conducting gaming in compliance with legal requirements.
- ORS Ch. 464 sets forth the Department's authority, licensing requirements, operating standards, and enforcement.
- OAR 137 Division 25 contains the Department's administrative rules relating to gaming.

Overview of Regulation



- **Statutes and Rules Limit For Profit Involvement**
 - Participation generally restricted to nonprofits
 - Caps on administrative expenses
 - Independent contractor limitations
 - Limits on wages.
- **Limits on Scale of Activity**
 - Limits on hours and days of operation
 - Limits on value of prizes
- **Designed to Limit IRS Issues**
- **Authorized games do not include pull tabs or scratch offs**

Who Can Engage in Nonprofit Gaming?



- Nonprofit that has held federal tax-exempt status for at least one year. ORS 167.117(5)
- Must have been actively engaged in program activity during that time. ORS 464.270(1)(b).
- Required to be licensed, unless activity falls below licensing threshold. A license is required for:
 - Raffles – over \$10,000 a year
 - Bingo – over \$5,000 annually or \$2,000 a session
 - Monte Carlo – over \$5,000 annually or \$2,000 and event
- Category broader than charitable registration requirements

Restrictions Limiting Private Financial Gain



- Bingo and raffle games must be conducted by employees or recognized volunteers of the organization.
- Only the organization, its employees, and players may profit from the operation of the gaming event, subject to exceptions for licensed Monte Carlo contractors, equipment suppliers, and landlords with appropriate fee arrangements. ORS 167.118.
- Bingo and raffle expenses cannot exceed 22% of annual handle. ORS 167.118(5). If a nonprofit generates \$250,000 a year or more in handle, the organization is required to ensure that it retains at least 5%, after deducting prizes and other administrative expenses. ORS 167.118(6).

Restrictions Limiting Private Financial Gain



- Compensation cannot exceed 200% of Oregon minimum wage or 300% for supervisory personnel. ORS 464.250(1)(i)
- Employees limited to 40 hours a week administering or operating game.
- Payment of rent to officer or director of nonprofit prohibited. The Department may prohibit gaming activity if rent or fees unreasonable.

Licensing Framework



- ORS 464.250 sets forth licensing standards. Licensees required to disclose officers and directors of organization and people employed in operation of game.
- Department has authority to conduct background checks
- Authority to conduct investigations and inspections, issue administrative subpoenas.
- In addition to licensing nonprofit organizations, Department also licenses bingo managers and Monte Carlo contractors.
- Subject to the Administrative Procedures Act, Department has authority to deny or revoke a license or imposes civil penalties of up to \$10,000 per violation.
- Our unit has civil authority, but does not directly enforce criminal prohibitions.

Licensing Framework



- Annual licensing requirement
- Licensees required to submit reports of gaming activity and pay associated fees, generally annually, but quarterly for large bingo licensees.
 - License fees range from \$20 to \$200 based on license type
 - Report fees range from .5 to 2% of gaming handles
- Recordkeeping Requirements.
 - Specific requirements vary, depending on activity, but in general require documentation of income, expenses, and prize winners

Licensing Framework



- Focus on Education and working cooperatively with licensees.
- License application includes questions to ensure applicant is familiar with operating standards and legal requirements. Bingo Manager applicants must also demonstrate financial responsibility.
- License application, other forms and resources are available on the Department's website at: doj.state.or.us/charitable-activities.

Basics of Bingo



- License classifications based on gross handle
 - Class A- unlimited
 - Class B – up to \$250,000
 - Class C - up to \$75,000
 - Class D – up to \$20,000
- Class A and B licensees are required to have a licensed bingo manager.
- Inventory control requirements for larger organizations to prevent theft/skimming

Basics of Bingo



- Bingo defined in 167.117 – game played with cards bearing lines of numbers, number selected from container, winner is player who first covers selected pattern.
- Electronic cards allowed.
- An organization is limited to 20 hours/4 days a week.
- Maximum prize of \$5,000 in any one game- may award up to \$10,000 two times a year.

Basics of Raffles



- **License categories**
 - Class A – unlimited gross handle
 - Class B - up to \$10,000 per raffle
 - Not licensed – \$10,000 or less per calendar year.
 - Class A licensees required to submit notice of raffles where sales are expected to exceed \$10,000.
- Raffle is a lottery operated by a nonprofit in which players play for chances and winner of prize determined by random drawing. ORS 167.117(19).
- Includes traditional drawings and alternate formats. Duck race raffles type of alternate format expressly allowed by rule.
- Other alternate formats subject to approval by Department

Basics of Raffles



- A single non-cash prize cannot exceed \$75,000 and total prizes cannot exceed \$100,000.
- Total cash prizes cannot exceed \$5,000, but can award gift cards and gift certificates.
- Cannot require the ticket purchaser to be present.
- Organization must own or have a purchase agreement in place for the prize prior to ticket sales.

Basics of Raffles



- Required ticket disclosures, including date of drawing, odds of winning, description of prize and fair market value.
- No house raffles, but gun raffles allowed.
- Raffles differ from sweepstakes that permit free methods of entry.
- Auctions are not gambling activity.

Basics of Monte Carlo



- Allows nonprofits to play Casino style games as defined in ORS 167.117(4).
 - Blackjack, Roulette, Texas Hold'em
- Enactment of Monte Carlo statutes has supplanted “Happy Canyon” exception in ORS 167.117(7)(b).
- Licensee Classifications
 - Class A – Up to 7 events with unlimited handle
 - Class B – Up to 7 events with maximum handle of \$5,000 per event or 2 events with maximum hand of \$10,000 per event
 - Monte Carlo contractor and supplier licenses.
- Games must be conducted by employees or volunteers of organization or licensed Monte Carlo Contractor.

Basics of Monte Carlo



- No cash prizes.
- Required to purchase imitation money – no cash on table.
- Maximum buy-in of \$500 per player.
- Cannot exceed 12 hours in length. Monte Carlo events cannot be conducted more than 40 times at a single location in the same calendar year.

Common Issues



- Social Gaming is a Different Exception
- Unlicensed Raffle Activity
- Expansion of online activities

Contact and Resources



Charitable Activities Section
Oregon Department of Justice
100 SW Market St.
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DOJ Website:

<https://www.doj.state.or.us/charitable-activities/>