

Guidance on Raffles Frequently asked questions about raffles

Hosting a raffle

Some nonprofit organizations are permitted to hold certain gaming activities in order to fundraise. They are allowed to hold raffles, defined as "an arrangement for raising money by the sale of tickets, certain among which, as determined by chance after the sale, entitle the holders to prizes."

The law requires that the promotion and operation of the raffle be limited only to the qualified members of the sponsoring organization and no such member shall receive compensation in any form for their time or effort devoted to the promotion and operation of such raffle. In addition, all raffle proceeds must be used for educational, charitable, religious, fraternal or civic purposes or for veterans' benefits.

Only certain organizations can hold raffles

Only a veterans, church or religious, fraternal or fraternal benefit society, educational or charitable, civic or service club, or other club or organization operated exclusively for nonprofit purposes may hold a raffle. This means:

1. a for-profit entity cannot hold a raffle for itself or for a nonprofit; and
2. an individual cannot hold a raffle.

The organization must be organized and actively functioning as a nonprofit in Massachusetts for at least two years. This means the organization cannot:

1. organize one week and have a raffle the next week; and
2. be incorporated or otherwise organized in another state.

If the organization is a public charity, in order to hold a raffle it must be registered with the AGO and in compliance with the reporting requirements. The law exempts the American National Red Cross, the Grand Army of the Republic, American Veterans of World War II, Korea and Vietnam, Vietnam Veterans of America, AMVETS, the United Spanish War Veterans, the American Legion, the Disabled American Veterans of the World War, Military Order of the Purple Heart, the Paralyzed Veterans of America, the Veterans of World War I of the U.S.A., the Veterans of Foreign Wars of the United States and organizations that hold property held for any religious purpose, whether incorporated or unincorporated, from having to register with the AGO. These organizations still need to follow the law and regulations in order to hold a raffle.

The public charity must also be in possession of a **Certificate of Solicitation**. If the public charity is unable to document its compliance with the reporting and certificate requirements, it should contact the AGO's Non-Profit Organizations/Public Charities Division.

Obtaining a permit

Before conducting a raffle, the organization must obtain a raffle/bazaar permit from the City or Town clerk where the raffle is going to be held. The permit application must include:

- the name and address of organization;
- the evidence it relies on to qualify for a permit;
- the names of three officers or members who are responsible for the raffle; and
- the uses to which the net proceeds will be applied.

The process to obtain a permit is as follows:

1. The permit application is submitted and reviewed by the City or Town Clerk.
2. It then goes to the Chief of Police who decides whether or not to endorse it.
3. If endorsed by the Police Chief, it is returned to the Clerk who issues the permit.
4. The Clerk issues a permit valid for one calendar year and sends a copy to the Commissioner of Public Safety and to the Lottery Commission.
5. The Lottery Commission sends a financial form for the organization to complete within 10 days after the raffle is completed.
6. If the application is not endorsed by the Chief of Police or not approved by the Clerk within 30 days of applying, the organization may seek judicial review in the District Court.

Additional Requirements

If a raffle's ticket price is more than \$10 or the raffle has a prize worth more than \$10,000, there are additional requirements, including:

- Only people who are qualified members of the organization holding the raffle can participate in managing or otherwise assisting in the operation of the raffle. Those are people who: (1) were members of the organization for at least 3 months prior to the raffle; (2) paid any required fees or dues to the organization; and (3) have met all other conditions for being a member in good standing with the organization.
- The raffle tickets, or a written notice given to the purchaser prior to selling the ticket, must disclose: (1) the drawing date; (2) a full and fair description of the prize; (3) the appraised value of the prize (when purchased from a third party, the

organization must have an independent appraisal by a licensed appraiser); (4) a date when the prize is available for inspection; (5) the amount of the ticket price that goes to charitable purposes; (6) the minimum or maximum number of tickets to be sold and what happens if the minimum is not reached; (7) that a prize is considered to be ordinary income by the Internal Revenue Service (IRS); (8) that no part of a raffle ticket purchase is considered a charitable contribution by the IRS; and (9) depositing the ticket or other material in connection with the raffle in the mail is a violation of federal law and may lead to criminal penalties.

- If there are any changes to the terms of the raffle (such as the nature or value of the prize or a postponement of the drawing date), the organization must notify all purchasers and give them a chance to rescind their purchase.
- If the prize is not awarded, the organization must notify ticket purchasers and return all of the money received within 30 days.
- No member or employee of the organization or their immediate family members may purchase tickets to the raffle or win the prize.
- No raffle tickets may be given away by the organization, its members, employees, or agents.

Record Keeper

The record keeper shall:

1. have been a member of the organization for a minimum of two years prior to the raffle;
2. maintain a list of members of the organization;
3. maintain a list of those members authorized to sell raffle tickets or participate in any way in the promotion or operation of the raffle;
4. maintain all documents concerning the prize or prizes to be raffled;
5. maintain all permits, licenses, and other documents required for the raffle;
6. keep a record of the raffle ticket purchaser's name and address and purchase date;
7. keep the ticket stubs used to conduct the drawing; and
8. be responsible for keeping and distributing raffle tickets, the safekeeping of ticket stubs and maintaining all records relating to the raffle, including bills of sale, agreements, appraisals, permits, licenses, ledger books, and any other documents required to show the proceeds and expenses of the raffle.

Activities after the raffle

The organization must file a tax return with the Lottery Commission and pay a 5% tax on the gross proceeds (that is not the net amount after expenses, but the gross amount

received) ten days after the raffle. The organization will receive the forms from the Lottery Commission after the permit is issued.

30 days after the raffle/bazaar permit expires, the organization must file with the City or Town Clerk two copies of a financial report certified by the three members responsible for the event and an accountant. The Clerk will then send one copy to the Commissioner of Public Safety.

The permitted organization must keep all records relating to the raffle for at least one year after the financial report is submitted. However, if the organization is a public charity reporting to the Attorney General, it must keep the records for three years after the filing of the **Form PC**.

Frequently asked questions about raffles

Q: Are there any limits on the number of raffles allowed under a permit?

A: No, there is no limit on the number of raffles that can be held.

Q: What is the difference between a raffle and a promotion?

A: A raffle requires a purchase in order to participate but a promotion does not. For example, radio stations may offer listeners a chance to win prizes; but if an individual does not have to pay to be eligible to win, it is considered a promotion. If a retailer does not require a purchase to participate in a give away of goods or services, it is conducting a promotion, not a raffle. These guidelines do not apply to promotions.

Q: Does an organization need a permit to conduct a silent auction?

A: No, a silent auction is not considered gaming activity.

Q: Can I raffle off my house if I give a portion of it to a nonprofit organization?

A: No. Only qualified non-profit organizations that have obtained a permit can conduct raffles. An individual cannot hold a raffle even if a portion of the proceeds will be donated to a qualified nonprofit organization.

Q: Can a nonprofit organization hold an online raffle?

A: Currently, Massachusetts has no law that allows raffle ticket sales over the Internet. Both the raffle ticket seller and purchaser must sign the raffle ticket. In addition, raffle activity conducted online may implicate both federal and state laws and some states expressly prohibit it. Organizations wishing to hold online raffles should consult an attorney who can provide guidance on all legal requirements before conducting an online raffle.

Q: Can a nonprofit organization hold a 50/50 raffle or distribute a prize from the money collected from the sale of raffle tickets?

A: A nonprofit organization may hold a raffle to award various prizes that are announced in advance, such as a motorcycle, trip or television. If, however, the prize is cash (such as in the case of a 50/50 raffle where the winner receives 50% of the proceeds) or a portion of the prize is derived from the raffle proceeds, **the raffle may run afoul of the prohibition against pooling.**

OFFERED BY Office of Attorney General Maura Healey

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