

940 CMR. OFFICE OF THE ATTORNEY GENERAL

940 CMR 13.00. Regulations Governing Bazaars

§ 13.01. Definitions

Bazaar means a place maintained by a Licensed Organization for disposal of merchandise or cash awards by means of chance; provided that the awarding of cash prizes in excess of the amount allowed by M.G.L. c. 271, § 7A or any successor thereto is expressly prohibited.

Function is a Bazaar maintained and conducted by a Licensed Organization for the disposal of awards of merchandise, cash or its equivalent by means of games. This includes without limitation thereto, so-called Las Vegas, Casino or Monte Carlo Nights.

Gross Receipts means the total amount of money received as admission fees and from the sale or transfer for money of chips, script or the like used to make wagers.

Lawful Purpose means educational, charitable, religious, civil or fraternal purposes or veterans benefits.

Licensed Organization means any Licensed Organization which holds a Bazaar permit issued pursuant to M.G.L. c. 271, § 7A.

Local Licensing Authority means the clerk of the city or town wherein a permit to conduct Bazaars is issued or to whom an application to conduct same is submitted.

Net Proceeds is Gross Receipts less taxes, prices and reasonable and necessary expenses ordinarily incidental to the conduct of said Bazaar.

Raffle/Bazaar Law means M.G.L. c. 271, § 7A.

Cite as 940 CMR 13.01

§ 13.02. Licensing

Lists Required To Be Kept: Membership List. Each Licensed Organization must maintain a list of its current membership by name, address, telephone number and a description of the type of membership in the organization which shall be kept available for inspection at all reasonable times.

Cite as 940 CMR 13.02

§ 13.03. Conduct of Games

(1) Workers.

- (a) **Member in Charge.** Every Licensed Organization shall designate a bona fide, active member of the licensee to be in charge of and primarily responsible for each Function. The member-in-charge shall have been a member in good standing of the Licensed Organization for at least two years. The member in charge shall supervise all activities and be responsible for the conduct of all games during the Function of which he is in charge including the preparation of any financial reports required by law. The member-in-charge or his qualified designee shall be present on the premises continually during the Function and shall be familiar with the provisions of the Raffle/Bazaar Law, applicable ordinances and local laws, Regulations, and the terms of the permit.

- (b) **List of Workers.** A Licensed Organization conducting a Function shall prepare and have available on the premises a list of all persons taking part in the management or operation of the Function. Such list shall be maintained as part of the permittees' records of the Function and shall be made available to any law enforcement officer.
- (c) **Participation of Worker Restricted.** No person shall assist in the conduct of a Function except a bona fide member of the Licensed Organization whose name appears on the lists required by 940 CMR 13.03(1)(b).
- (d) **Bona Fide Member.** For the purposes of eligibility to participate in managing or otherwise assisting in the operation of a Function, a person is a bona fide member of the Licensed Organization only when he or she:
1. Has become a member prior to the commencement of the Function and such membership was not dependent upon, or in any way related to the payment of consideration to participate in, any gambling activity; and
 2. Has held full and regular membership status in the Licensed Organization for a period of not less than three consecutive months prior to the subject Function; and
 3. Has paid any reasonable initiation or admission fees for membership, and/or any dues, consistent with the nature and purpose of the Licensed Organization and with the type of membership obtained and is not in arrears in payment of any such fees or dues; and
 4. Has met all other conditions required by the Licensed Organization for membership and is in all respects a member in good standing at the time of the subject Function. A person may also be a bona fide member of a bona fide charitable or bona fide nonprofit organization affiliated with or auxiliary to his or her Licensed Organization, or to which his or her own Licensed Organization is auxiliary, when he or she meets all of the standards set out above respecting his or her own Licensed Organization.
- (e) **Identification Required.** The member-in-charge and those assisting him in any capacity shall possess and display identification.
- (f) **Officer Responsible for Gross Receipts.** The Licensed Organization shall duly designate an officer of said organization to be in full charge and primarily responsible for the proper accounting, use and disposition of all Gross Receipts. Such officer's name shall appear on the list required under 940 CMR 13.03(1)(b) and such officer shall be a person other than the person designated member in charge pursuant to 940 CMR 13.03(1)(a).
- (g) **Payment of Workers Prohibited.** No commission, salary, compensation, reward, recompense, reimbursement of expenses or gift or other consideration shall be paid directly or indirectly, to any person for conducting or assisting in the conduct of any Function except as hereinafter provided for bookkeepers or accountants who assist by rendering their professional services. No tip, gratuity or gift or other consideration shall be given or accepted by any person conducting or assisting in the conduct of a Function either directly or indirectly, and one or more signs prohibiting tipping shall be prominently

displayed in each playing area. No person shall solicit or receive any gift or donation or other consideration directly or indirectly on the premises during the conduct of a Function.

- (h) **Compensation of Bookkeepers and Accountants.** Bookkeepers and Accountants may receive reasonable compensation for necessary services ordinarily incidental to the operation of a Function. Any bookkeeper or accountant receiving any compensation under 940 CMR 13.03 shall not participate or assist in any other capacity under 940 CMR 13.03 or any other section of 940 CMR.
- (i) **Persons Performing Incidental Services.** Persons who perform only the following incidental services in connection with a Function shall not be deemed to be participating in the "management or operation" of such an event requiring that persons participating in the management or operation of the event be members of the Licensed Organization:

1. Serving food and/or drink to participants at the Function.
2. Acting as a police officer for the purposes of maintaining general crowd control and order at the Function, or to detect persons cheating the participants or the house, when that person is a commissioned law enforcement officer with the power to make arrests in the jurisdiction in which the Function is being held or is the employee of a commercial securities service firm licensed by the Department of Public Safety.
3. Providing janitorial functions.
4. Supervising personnel carrying out the functions enumerated in 940 CMR 13.03(1)(i)1., 2., and 3., without participating further in the Function.

Provided, that the payment of persons to perform these functions does not exceed the local prevailing level of payment for similar services.

- (j) **Regular Salary for Licensee's Employee Not "Compensation" For Work on Functions Under Certain Conditions.** The salary of a regular and full time employee or a regular but part time employee if the Licensed Organization has employed that part time position for the past two consecutive years, of a Licensed Organization shall not be deemed "compensation" for work performed by the employee in connection with a Function conducted by that organization when all of the following conditions are met:
1. The position held by the employee has been created for purposes unrelated to the conduct of a Function and the required performance of duties is generally unrelated to Functions. The employee's contribution to a Function must be an incidental part of his or her total duties, consisting of less than 1% of the total time worked for the organization; and
 2. The employee is paid on a recurring basis on a regular and established rate throughout the calendar year, unrelated to the income produced by any Function; and
 3. The employee does not operate any game at any Function conducted by the organization but confines his or her services in connection with the event to assisting the organization's other members with the overall planning and organization of the event and with supervision of the

supporting services for the event.

Cite as 940 CMR 13.03

§ 13.04. Limitation of Participation of Certain Persons

No person directly or indirectly connected with the manufacture, sale or distribution of gaming equipment or supplies, or the agents, servants or employees of such person, shall conduct, participate, advise or assist in the conduct of a Function or render any service to anyone conducting, participating or assisting in the conduct of a Function including the preparation of any form relating thereto.

Cite as 940 CMR 13.04

§ 13.05. Equipment

- (1) **Ownership of Equipment.** The Licensed Organization shall conduct games only with equipment owned by it or which a lessor undertakes to provide by the terms of a written lease. The rental fee contained in such a lease shall be a sum certain and shall be commercially reasonable.
- (2) **Equipment.** Equipment used in the conduct of a Bazaar must be maintained in good repair and sound working condition. Equipment shall be used, and play operated, so that each player is given an equal opportunity to win.

Cite as 940 CMR 13.05

§ 13.06. Operation of Games

- (1) **Wagering by Use of Chips, Script or the Like Required.** A Licensed Organization may allow wagers to be placed only in the form of chips, script or the like and purchased for cash at the Function at which the wager is made. Wagering in the form of currency or representations of credit is expressly prohibited. Chips, script or the like may be redeemed at only the specific Function where they were acquired.
- (2) **House Rules.** Prior to conducting a Function, each Licensed Organization shall develop a set of house rules which will govern the type, scope and manner of all games to be conducted. Among other information, these rules shall establish the maximum amount of wagers which may be placed by persons participating in games. In addition, the rules shall prohibit the giving of anything of value to any person involved in the management or operation of the Function and prohibit any involved in the management or operation of the Function from accepting anything of value. A copy of the rules shall be posted conspicuously on the premises where the Function is being conducted at all times during the occasion, and a copy thereof shall be made available upon request, to any law enforcement officer. The maximum wager and rules for individual games shall be displayed at the location of each said game so as to be conspicuous to those persons participating in said game.

Cite as 940 CMR 13.06

§ 13.07. Prohibited Acts

- (1) **Wagering Among Participants Not Permitted.** No Licensed Organization shall permit, as a part of a Function, a gambling activity which involves a wagering of money or other items of value by one participant directly against another participant, if the activity does not provide for some portion of the proceeds to go to the

Licensed Organization. This rule shall not be construed to prohibit games wholly administered by the Licensed Organization wherein the licensee collects wagers from among the participants and determines the winners and amount of prizes on a parimutuel basis.

- (2) **Credit and Checks.** No Licensed Organization may extend credit to any patron at a Function. No checks may be cashed or received for the purchase of chips, script and the like.
- (3) **Persons Under Age 18.** No person under 18 years of age shall be permitted on that portion of the premises used for a Function.
- (4) **Transaction of Certain Business Prohibited.** No person who is directly or indirectly connected with the manufacture, sale or distribution of gaming equipment or supplies or his agents, servants or employees may be present during a Function for the transaction of business.
- (5) **Workers Prohibited From Participating.** Workers are prohibited from participating in games at any Function during which they participate as workers.

Cite as 940 CMR 13.07

§ 13.08. Police Officer Required

Each Licensed Organization shall retain the services of a police officer of the city or town where the Function is conducted or shall take such other steps as are adequate to protect the proceeds and to insure the public safety. The police officer may be compensated under 940 CMR 13.03(1)(i)2. at a rate not to exceed the rate currently prevailing for such services in said city or town.

Cite as 940 CMR 13.08

§ 13.09. Limitation of Functions

No Licensed Organization shall conduct more than two Functions in any single calendar year. The operation of a Function shall be limited to five consecutive hours.

Cite as 940 CMR 13.09

§ 13.10. Record Keeping

(1) Records

- (a) **Record Keeping.** Accurate records and books shall be kept by each Licensed Organization including but not limited to detailed financial reports of the amount and source of proceeds, the members participating in the promotion and/or operation of the Function, all expenses and disbursements.
- (b) **Access to Records.** Law enforcement personnel shall at all times have access to all books and records of any Licensed Organization.

- (c) **Period for Retention of Records.** All records, books of account, bank statements and all other papers incidental to the operation of Bazaars by the Licensed Organization shall be retained and available for inspection by law enforcement personnel for a period of four years from the close of the calendar year to which the records apply.
- (2) **Central Accounting System.** Each Licensed Organization shall establish and maintain a central accounting system for the operation of a Function for all activities conducted in conjunction with the Function. The central accounting system should include but not be limited to internal controls to secure and count all cash received in connection with the Function, methods of accounting for chip sale and reimbursement, and verification of all transfers of cash and chips between game station(s) and the central counting area.
- (3) **Expenses.** Each Licensed Organization should incur only those expenses which are reasonable and necessary for the promotion and/or operation of a Function.

Cite as 940 CMR 13.10

§ 13.11. Violations of 940 CMR 13.00

Failure to comply with any of 940 CMR 13.00 shall be deemed an unfair and deceptive act or practice, in violation of M.G.L. c. 93A, § 2 or a misapplication of funds given or appropriated to public charities.

Cite as 940 CMR 13.11

§ 13.12. Severability

If any provision of 940 CMR 13.00 or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of 940 CMR 13.00 and the applicability of such provisions to other persons or circumstances shall not be affected thereby.

Cite as 940 CMR 13.12