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CHAPTER 64
GAMBLING

2014 NOTE: Unless otherwise indicated, Comments and Cross References are the original annotations from the Criminal and Correctional Code (1977), enacted by P.L. 32-185 (Sept. 2, 1976). These annotations were included when the Criminal and Correctional Code (1977) was “recodified” as Title 9 of the Guam Code Annotated pursuant to P.L. 15-104:8 (Mar. 5, 1980). These original annotations were retained in past print publications of the GCA, and are included herein for historical purposes. The Source notes, however, have been updated to reflect subsequent changes to each provision. Other annotations in this Chapter, including explanatory notes, were added by the Compiler in past publications of the GCA.

- Article 1. Gambling Generally.
- Article 2. Authorized Activities.

ARTICLE 1
GAMBLING GENERALLY

- § 64.10. Gambling; Defined & Punished.
- § 64.15. Use of Electronic Machine or Device to Conduct Sweepstakes Illegal.
- § 64.16. Forfeiture of Electronic Machine or Device Used to Conduct Sweepstakes.
- § 64.17. Penalties.
- § 64.20. Importation of Gambling Devices Guam Illegal: Defined & Punished.
- § 64.21. Poker Machines and Video Lottery Terminals.
- § 64.22. Possession of Gambling Devices Prohibited; Penalty.
- § 64.23. Slot Machines.

§ 64.10. Gambling; Defined & Punished.

(a) Except as otherwise provided by this Chapter, a person commits a misdemeanor when he:

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(1) makes or accepts a wager involving money or anything of monetary value upon the result of any game or contest;

(2) holds any money or anything of monetary value which he knows has been wagered in violation of Paragraph (1); or

(3) sets up or promotes any lottery or sells or buys any lottery ticket.

(b) As used in this Section, lottery means a plan whereby prizes are distributed by chance among persons who have paid or promised to pay anything of monetary value for a chance to win a prize.

SOURCE: G.P.C. §§ 319-321, 330, 330a, 532b; See also §§ 322, 323, 331; *Cal § 1555(a)(c) (1971).

CROSS-REFERENCES: §§ 4.60, 4.65 -Aiding, Facilitating an offense; § 64.30 -Social Games; § 64.40 - Cockfight; § 64.50 -Authorized lotteries; §§ 64.60-64.68 - Bingo.

§ 64.15. Use of Electronic Machine or Device to Conduct Sweepstakes Illegal.

(a) Definitions. As used in this Section, unless the context clearly requires otherwise, the following words shall have the following meanings:

(1) (A) Electronic machine or device means a mechanically, electrically or electronically operated machine or device that is owned, leased, or otherwise possessed, by a sweepstakes sponsor or promoter, or any sponsors, promoters, partners, affiliates, subsidiaries, or contractors thereof, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism. This Section is applicable to an electronic machine or device whether or not it:

(i) is server-based;

(ii) uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;

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(iii) utilizes software such that the simulated game influences or determines the winning or value of the prize;

(iv) selects prizes from a predetermined finite pool of entries;

(v) utilizes a mechanism that reveals the content of a predetermined sweepstakes entry;

(vi) predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;

(vii) utilizes software to create a game result;

(viii) requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device;

(ix) requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device;

(x) requires purchase of a related product having legitimate value;

(xi) reveals the prize incrementally, even though it may not influence whether or not a prize is to be awarded or the value of any prize awarded;

(xii) determines and associates the prize with an entry or entries at the time the sweepstakes is entered;

(xiii) is a slot machine or other form of electrical, mechanical, or computer game.

(B) Electronic machine or device also includes gambling devices as defined in § 64.20(b) of this Chapter.

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(2) Enter or entry means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

(3) Entertaining display means any visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play, or simulated game play.

(4) Game play or simulated game play means any game play whether actual or electronically simulated which when played may return winnings (other than free games not redeemable for cash) of value to the user based partially or completely upon chance, which a user is required to participate in prior to the reveal of a prize, or the receipt of anything of value.

(5) Prize means any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

(6) Sweepstakes means any game, advertising scheme or plan, or other promotion, which uses an electronic machine or device as defined in this Section, with or without payment of any consideration, that a person may enter to win or become eligible to receive any prize, the determination of which is based partially or completely upon chance.

(b) It shall be unlawful for any person to operate or knowingly possess with the intent to operate, or place into operation, an electronic machine or device to:

(1) conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize; or

(2) promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.

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(c) Nothing in this Section shall be construed to make illegal any activity which is lawfully conducted pursuant to Title 9 GCA, Chapter 64, Article 2.

SOURCE: Added by P.L. 32-130:1 (Feb. 13, 2014).

2017 NOTE: Subsection/subitem designations altered/added in subsection (a) pursuant to authority of 1 GCA § 1606.

§ 64.16. Forfeiture of Electronic Machine or Device Used to Conduct Sweepstakes.

(a) Upon a determination by the Department of Revenue and Taxation or the Attorney General that probable cause exists to believe that any electronic machine or device is being operated or is intended to be operated to conduct a sweepstakes or promote a sweepstakes in violation of Title 9 GCA § 64.15 above, the electronic machine or device shall be subject to immediate seizure by law enforcement officials from the Department of Revenue and Taxation, the Guam Police Department, or the Office of the Attorney General.

(b) Any government entity in possession of a seized electronic machine or device shall retain the item pending a disposition order from a Superior Court judge.

(1) Upon application by the Department of Revenue and Taxation, or the Attorney General, or the owner of the electronic machine or device, and after notice to all parties and an opportunity to be heard by all parties,

(A) if the court determines that it is unlawful to possess the electronic machine or device, the Director of the Department of Revenue and Taxation, or the Attorney General, may have the electronic machine or device destroyed, or may use the electronic machine or device for training, or may sell the electronic machine or device at an auction to be held at the place where the electronic machine or device is located, or at another place as determined by the Director of the Department of Revenue and Taxation, or the Attorney General.

(B) If the court determines that the electronic machine or device is not unlawful to possess under

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Title 9 GCA § 64.15, the electronic machine or device shall be ordered released to its owner upon satisfactory proof of ownership.

(2) Neither the government of Guam nor its officials, employees or agents shall be liable for the seizure of electronic machines and devices under this statute when a court determines that the electronic machine or device is ordered to be released to its owner.

(c) The foregoing procedures for release shall not apply with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment.

SOURCE: Added by P.L. 32-130:2 (Feb. 13, 2014).

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 64.17. Penalties.

(a) Any person who violates Title 9 GCA § 64.15 shall be guilty of a felony punishable by imprisonment of not more than five (5) years and a fine not to exceed \$250,000, or both. Each violation of Title 9 GCA § 64.15 shall be considered a separate offense.

(b) Any person who violates Title 9 GCA § 64.15 may also be subject to an administrative penalty of not more than \$250,000, to be assessed by a decision and order of the Director of the Department of Revenue and Taxation. Each violation of Title 9 GCA § 64.15 shall be considered a separate offense.

(1) Before issuing a decision and order assessing an administrative penalty, the Department of Revenue and Taxation shall give written notice, in the form of an accusation, to the person to be assessed an administrative penalty.

(2) The person to be assessed an administrative penalty shall be entitled to notice, to a hearing before the Director of the Department of Revenue and Taxation, and to review by the Superior Court according to the procedures in Articles 1 and 2 of the Administrative Adjudication Law.

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(3) (A) If any person fails to comply with an administrative penalty decision and order after the assessment has become final, or after a court in an action brought pursuant to the Administrative Adjudication Law has entered a final judgment in favor of the Director of the Department of Revenue and Taxation, the Attorney General of Guam may bring a civil action to enforce the order and to recover the amount ordered or assessed, plus interest of six percent (6%) per annum from the date of the final administrative decision and order or the date of the final judgment, as the case may be. In this action, the validity, amount, and appropriateness of the penalty assessed by the administrative decision and order or the final judgment of the court made after an appeal of the administrative decision and order shall not be subject to review. The Director of the Department of Revenue and Taxation need only show that:

- (i) notice was given; and
- (ii) a hearing was held, or the time granted for requesting a hearing has run without a request for a hearing; and
- (iii) the penalty was imposed; and
- (iv) the penalty remains unpaid.

(B) A judgment of the court entered under this Subpart (3) of § 64.17(b) may be enforced and collected in the same manner as a money judgment of the Superior Court.

SOURCE: Added by P.L. 32-130:3 (Feb. 13, 2014).

2017 NOTE: Subsection/subitem designations altered/added in subsection (b)(3) pursuant to authority of 1 GCA § 1606.

§ 64.20. Importation of Gambling Devices to Guam Illegal: Defined and Punished.

(a) A person commits a felony when he imports or attempts to import, or causes to import a gambling device, whether

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operable or not, into the territorial jurisdiction of Guam, or manufactures a gambling device within the Territory of Guam.

(b) As used in this Section, gambling device means any coin operated device which, when operated, may return winnings (other than free games not redeemable for cash) of value to the user based partially or completely upon chance, by the operation of which a person may become entitled to receive winnings of value.

(1) It does not include pinball and other amusement machines or devices which are predominantly games of skill, whether affording the opportunity of additional chances or free plays or not.

(2) It does include any slot machines, video poker machines and other machines or devices which afford the opportunity of winnings, payouts, malfunction refunds to the player, or giving the player or user anything of value under any guise or form based partially or completely upon chance.

(c) Any gambling device in violation of this Section shall be subject to seizure and forfeiture. Any slot machine shall be subject to seizure and forfeiture.

(1) Any property subject to forfeiture under this Section shall be seized by a peace officer, including Guam Customs Officer, upon process issued by the Superior Court, except that seizure without such process may be made when the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; the property subject to seizure has been the subject of a prior judgment in a criminal injunction or forfeiture proceeding based upon this Section; or the peace officer has probable cause to believe that the property has been used or intended to be used in violation of this Section. In the event of a seizure pursuant to this Subsection, proceedings under Subsection (d) shall be instituted promptly.

(d) Property taken or detained under this Section shall not be repleviable, but shall be deemed to be in the custody of the

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government subject only to the orders and decrees of the Court. Whenever property is seized under the provisions of this Section, the government shall destroy all gambling devices seized and forfeited upon order of the Court.

(e) Any person found guilty of the importation, attempted importation or causing the importation of gambling devices to Guam, or who is found guilty of manufacturing a gambling device in Guam, shall be guilty of a felony and be subject to imprisonment for not more than five (5) years, a fine not to exceed Twenty-five Thousand Dollars (\$25,000.00) per gambling device, or both such fine and imprisonment.

SOURCE: G.P.C. § 330a; *Cal. § 1560 (1971). Subsection (b) amended by P.L. 18-007:11 (July 8, 1985). Repealed and reenacted by P.L. 19-004:3 (May 21, 1987). Subsections (f) and (g) repealed by P.L. 19-024:9 (Oct. 17, 1988). Entire section repealed by P.L. 23-128:IV:13 (Dec. 12, 1996). Added by P.L. 24-001:3 (Mar. 15, 1997).

2014 NOTE: The Gambling Device Fund was implicitly created by P.L. 19-004:3 (May 21, 1987), which added subsection (g), and authorized the Director of Revenue and Taxation to charge registration fees for gambling devices and deposit the fees into a separate fund. Subsection (g) was repealed by P.L. 19-024:9 (Oct. 17, 1988), divesting the Director of authority over this separate fund.

The Gambling Device Fund itself was repealed P.L. 23-128:IV:13 (Dec. 12, 1996); the reference to “§ 6420 of Title 9” in this public law was a manifest typographical error and corrected by the Compiler. P.L. 23-128:13, provided:

Section 13. Repeal and reversion of Gambling Device Fund. § 6420 of Title 9, Guam Code Annotated, is hereby repealed and any and all remaining balances are reverted to the General Fund. All revenue previously earmarked into this Fund shall continue to be collected and credited to the General Fund.

P.L. 24-001:1 (Mar. 15, 1997) provided for the “Reversion of Gambling Device Fund” and stated: “any and all remaining balances of the Gambling Device Fund, repealed by P.L. 19-24, shall be reverted to the General Fund.” P.L. 24-001 also repealed Section 13 of P.L. 23-128, and added § 64.20 (a) through (e), using identical language as had been added by P.L. 19-004:3.

CROSS-REFERENCES: Hawaii Penal Code, §§ 712-1220(5) “Gambling Device.”

COMMENT: Section 64.20, as enacted, differs from the Commission's proposal in that Subsection (a) refers to certain authorized exceptions

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already contained in the Government Code of Guam allowing possession of slot machines in certain instances. Further, the definition of “gambling device” appeared to have been limited from the Commission’s proposal. The Commission proposed that a “gambling device” means “a device that, as a result of the insertion of money ...”. It is unclear whether this definition includes devices which have, as their operating mechanism, electronics only and do not use mechanical wheels or mechanical force, even though these machines operate in an identical fashion to the traditional mechanical slot machines.

This Section is a great improvement over the Penal Code in that, for the first time, the mere possession of gambling devices is prohibited without any additional requirement that they actually be used for gambling. It is this grave deficiency of the Penal Code that has prohibited local authorities from seizing slot machines heretofore due to lack of proof of their actual use of gambling devices, despite the obvious fact that they may be so used. Further, Subsection (c) provides for the forfeiture of such machines.

COURT DECISIONS: SUPERIOR COURT, 1978. Import of statute is to hold liable one who has control, dominion and pecuniary interest in a “gambling device,” rather than such person’s employee if such employee has no such control, dominion or pecuniary interest. *People v. Concepcion*, Sup. Ct. Cr. #37-78 (Order, 06/27/78; Abbate, P.J.)

C.A.9 1981 Public Law 13-135, providing for a “gambling zone” at the airport, provides only a limited exemption to 15 U.S.C. § 1172 and the exemptions were not applicable to the machines in this case. *U.S. v. Various Slot Machines on Guam*, 658 F.2d 697.

§ 64.21. Poker Machines and Video Lottery Terminals.

A person commits a misdemeanor when he places or causes to be placed a poker machine or video lottery terminal on or about the premises of any government building, or on or about the premises of any government or private school.

SOURCE: Added by P.L. 18-07:8 (July 8, 1985).

§ 64.22. Possession of Gambling Devices Prohibited; Penalty.

(a) A person commits a misdemeanor when he possesses a gambling device, whether operable or not, unless the gambling device is located upon or is being transported by a vessel regularly operating and engaged in domestic or foreign commerce and is located in a locked compartment of the vessel and is not accessible for use and is not used or operated within the jurisdiction of this territory.

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(b) As used in this Section gambling device has the same meaning as set forth in § 64.20 of this Chapter.

(c) Any person possessing a gambling device in violation of this Section shall be guilty of a misdemeanor, and be subject to imprisonment, for not more than one year, a fine not to exceed one Thousand Dollars (\$1,000.00) for each gambling device, or with imprisonment or fine.

(d) In addition to any other penalty provided by law, any illegal gambling device in violation of this Section shall be subject to the same seizure and forfeiture provisions for illegal importation under Section 64.20 of this Chapter.

(e) Notwithstanding the provisions of this section, any poker machine now on Guam which was on Guam on the day immediately preceding the effective date of this Act and which complied with territorial law as to possession on the day immediately preceding the effective date of this Act may be shipped off-island or destroyed or disposed of within six months of the effective date of this Act, without seizure or criminal penalties provided that such Poker Machine is not used for gambling or entertainment purposes after the effective date of this Act. The Guam Police Department shall monitor the shipment or disposal of such gambling devices. The Director of the Department of Revenue and Taxation shall cooperate fully with the Guam Police Department in providing all pertinent records relative to poker machines in the territory. Any poker machines not shipped off-island within six months or otherwise disposed of shall be subject to seizure in accordance with subsection (d) of this Title.

SOURCE: Added by P.L. 19-004:4 (May 21, 1987). Repealed and added by P.L. 19-24:10 (Dec. 17, 1988).

§ 64.23. Slot Machines.

No section of this Act shall be construed to allow the operation of slot machines in the Territory of Guam.

SOURCE: Added as uncodified law by P.L. 19-004:5 (May 21, 1987), originally codified by the Compiler as § 64.22A. Recodified to this section in accordance with the authority granted by 1 GCA §1606.

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1996 NOTE: "This Act" [P.L. 19-4] also dealt with gambling devices in the following sections: Sec. 2, repealing GC § 19200.5, exempting certain devices from provisions of 15 USC § 1172; Sec. 3, R/R 9 GCA § 64.20, importation of gambling devices; Sec. 4, adding 9 GCA § 64.22, hours of operation of gambling places; Sec. 6, adding 9 GCA § 64.23, minors' entry to gambling places; Sec. 7, adding GC § 19200.02 requiring meters on poker machines, and Sec. 8, effective date for Section 7.

2014 NOTE: P.L. 19-004:6 (May 21, 1987) added a new § 64.23 which provided:

§ 64.23. (a) No minor shall enter a business establishment or place where there are gambling devices, as defined in 9 GCA § 64.20, which may be operated. However, minors may enter business establishments or places where gambling devices are segregated by physical partitions from other amusement devices and service areas as long as the minors do not enter the areas where the gambling devices are operated.

(b) Any business establishment or place which permits minors to enter in violation of Subsection (a) of this Section may have their business license suspended for a period not to exceed thirty days upon the order of the Department of Revenue and Taxation after a hearing held in accordance with the Administrative Adjudication Act.

(c) The manager or other person having authority over such business establishment or place who operates in violation of this Section shall be guilty of a petty misdemeanor.

This provision was repealed by P.L. 19-24:11 (Dec. 17, 1988). Section 64.22A was renumbered to § 64.23.

ARTICLE 2
AUTHORIZED ACTIVITIES

- § 64.30. Social Gambling Defined & Permitted.
- § 64.40. Legal Cockfight Gambling Permitted.
- § 64.50. Authorization for Wagers. [Repealed]
- § 64.62. Rules and Regulations to Permit Games of Chance at the Guam Island Fair and Liberation Day Carnival.
- § 64.65. Amusement Devices.
- § 64.70. Organizations Authorized to Conduct Gambling: Permit Procedure.

§ 64.30. Social Gambling Defined & Permitted.

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Section 64.10 does not apply to making or accepting a wager upon the result of a game or contest when:

- (a) the game or contest takes place on private premises;
- (b) all the wagerers are present at that premise;
- (c) no charge is made directly or indirectly as a condition of entering the premises or wagering upon the result of the game or contest; and
- (d) nothing is sold, offered for sale or rented on the premises.

SOURCE: *Cal. § 1555 (b) (2), (d) (1971).

CROSS-REFERENCES: Hawaii Penal Code § 712-1231 - "Social Gambling."

COMMENT: § 64.30 is new. The purpose of this exception is to exclude from criminal liability games played for money in a private house where all profits and losses are shared by the players. This type of game is a common social occurrence on Guam and has been conducted both clandestinely and openly, at places such as wakes even though it is illegal under the Penal Code. Inclusion of such conduct within the criminal law tends to encourage disrespect for enforcement and the law itself. It might be noted that such games as craps and roulette are banking on percentage games and are not excluded by § 64.30(a).

The exceptions contained within Article II of this Chapter are not denominated as either "affirmative" or regular defenses. Therefore, it will be assumed that a defendant would treat a claim of exception as a regular defense to a prosecution for gambling. This is contrary to the Hawaii Penal Code on the subject.

§ 64.40. Legal Cockfight Gambling Permitted, and Penalties for Non-Compliance.

(a) Section 64.10 does not apply to making or accepting a wager upon the result of a cockfight when:

- (1) the cockfight takes place at a licensed cockpit; and
- (2) all the wagerers are present at the cockpit and are eighteen (18) years of age or more.

(b) Penalties. The following penalties shall be established, which shall be considered in conjunction with the provisions contained within § 64.10 of this Chapter, and shall apply to the

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owner of said property and establishment being utilized for such activities:

(1) for the first offense, a fine of Five Hundred Dollars (\$500.00) shall be assessed; and

(2) for a second offense and for each subsequent offense(s), a fine of Two Thousand Dollars (\$2,000.00) shall be assessed.

SOURCE: *G.P.C. § 330. Repealed/reenacted by P.L. 26-52:2.

2014 NOTE: Subsection designations in subsections (a) and (b) were altered to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

COMMENT: § 64.40 continues the traditional exception found in the Penal Code by allowing wagering at the cockfights, provided that the persons wagering are present, not minors, and are at a licensed cockpit. In 2001 The Legislature increased the penalties for violation of illegal cockfighting.

§ 64.50. Authorization for Wagers Pursuant to Title LXIV Government Code.

[Repealed].

SOURCE: Added by P.L. 32-185 (Sept. 2, 1976), the new Criminal and Correctional Code, and codified to the Guam Code Annotated. Repealed by P.L. 30-162:2 (July 16, 2010).

§ 64.55. [Repealed].

SOURCE: Added by P.L. 32-185 (Sept. 2, 1976), the new Criminal and Correctional Code, and codified to the Guam Code Annotated. Repealed by P.L. 19-019:30 (Aug. 22, 1988).

§ 64.60. [Repealed].

SOURCE: Added by P.L. 32-185 (Sept. 2, 1976), the new Criminal and Correctional Code, and codified to the Guam Code Annotated. Repealed by P.L. 19-019:32 (Aug. 22, 1988).

COMMENT: Sections 64.50 through 64.60 states specific exceptions from the gambling prohibitions for activity which are authorized by various Chapters of the Government Code dealing with lotteries, Jai Alai, and dog racing.

§ 64.62. Rules and Regulations to Permit Games of Chance at the Guam Island Fair and Liberation Day Carnival.

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(a) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Mayors Council of Guam, with the Attorney General of Guam and the Director of the Department of Revenue and Taxation, is hereby authorized to draft and submit to the Speaker of *I Liheslaturan Guåhan*, no later than sixty (60) days from the enactment of this Act, rules and regulations to permit Games of Chance at the Guam Island Fair and Liberation Day Carnival upon a proclamation by *I Maga'hågan Guåhan*. For the purpose of the rules and regulations authorized by this Section, "Games of Chance" shall be limited to:

(1) Carnival Games which for the purpose of this Section shall mean a game played for entertainment in which:

(A) the contestant actively participates;

(B) the outcome depends in a material degree upon the skill of the contestant;

(C) only merchandise prizes are awarded;

(D) the outcome is not in the control of the operator; and

(E) the wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game;

(2) Poker, to include, but not be limited to, Texas Hold'em;

(3) *Pusoy*;

(4) Baccarat;

(5) Blackjack;

(6) Monte;

(7) Color Game;

(8) Big & Small;

(9) Beto Beto; and

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(10) Bingo.

(b) *I Liheslaturan Guåhan* may, by the passage of a bill into law, approve, disapprove, or amend the rules and regulations permitted by this Section within thirty (30) calendar days from the date of filing with the Speaker of *I Liheslaturan Guåhan*; *except*, that any pending rules *shall* be deemed disapproved upon adjournment sine die of *I Liheslaturan Guåhan*.

(c) The rules and regulations *shall* consist of, among other items, the following:

- (1) protocol for authorization;
- (2) a determination of how municipalities manage the games of chance, including timelines;
- (3) a determination of how proceeds are split among municipalities;
- (4) a determination of how the funds will be expended;
- (5) a determination of how the games of chance and other vendors will be procured;
- (6) an identification of security protocol, including how minors will not be impacted;
- (7) an identification of projected revenues; and
- (8) an identification of maintenance plans.

SOURCE: Added by P.L. 16-120:27 (Dec. 17, 1982), amended by P.L. 18-040:64 (Nov. 6, 1986), and repealed by P.L. 34-015:2 (June 8, 2017). Repealed and reenacted by P.L. 35-004:1 (April 3, 2019).

2019 NOTE: Subsection designations altered pursuant to authority granted by 1 GCA § 1606.

§ 64.62.1. Mandatory Conditions.

Rules and regulations permitted under § 64.62 must comply with the following:

- (a) The Director of the Department of Revenue and Taxation *shall* designate and require the physical presence

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of a compliance agent during the operation of any Games of Chance permitted by § 64.62 of this Article.

(b) Any Games of Chance authorized under § 64.62 of this Article shall maintain the same hours of operation as the Guam Island Fair and Liberation Day Carnival; *except*, that Games of Chance under § 64.62 may operate until 2:00 a.m. on Fridays and Saturdays, and any night prior to an official federal or Guam holiday during the time period authorized by Subsection (c) of this Section.

(c) Games of Chance permitted under § 64.62 of this Article *shall begin no earlier than* the opening day of the Guam Island Fair and Liberation Day Carnival, and *shall cease operations no later than* sixty (60) days from the date of the opening day.

SOURCE: Added by P.L. 35-004:2 (April 3, 2019).

§ 64.62.2. Financial Reports Required.

The Mayors Council of Guam shall be subject to an audit by the Office of Public Accountability (OPA) within thirty (30) days of completion of the Guam Island Fair and Liberation Day Carnival. All financial documents that are required for this audit *shall* be submitted by the Mayors Council of Guam to the OPA, or the activities permitted under § 64.62 *shall* be suspended. The OPA shall publish the audit and submit its report to the Speaker of *I Liheslaturan Guåhan*.

SOURCE: Added by P.L. 35-004:3 (April 3, 2019).

§ 64.65. Amusement Devices.

Section 64.10 does not apply to the making or accepting of a wager on amusement devices licensed pursuant to 11 GCA § 22202; provided that § 64.10 shall apply to the making or accepting of a wager on an amusement device licensed pursuant to 11 GCA § 22202 if such device is located on or about the premises of any government building, located on or about the premises of any government or private school, or if such amusement device is operated by a person under the age of eighteen (18) years.

SOURCE: Added by P.L. 18-07:6 (July 8, 1985).

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**§ 64.70. Organizations Authorized to Conduct Gambling:
Permit Procedure.**

(a) Sections 64.10 and 64.20 do not apply to gambling activities sponsored, promoted and conducted by an organization which has been issued a permit to conduct such activities pursuant to Subsection (c).

(b) A permit to conduct gambling activities shall be issued by the Director of the Department of Revenue and Taxation if:

(1) the organization which applies for the permit has been organized and functioning actively as a nonprofit organization in the Territory for not less than two (2) years prior to filing its application and is:

(A) a church or religious organization;

(B) a fraternal or fraternal benefit society;

(C) an educational or charitable organization; or

(D) a club or organization organized and operated exclusively for pleasure, recreation and other nonprofit purposes not part of the net earnings of which inures to the benefit of any member or shareholder;

(2) the promotion and management of such bingo games or lottery (raffle tickets) are confined solely to the qualified members of the sponsoring organization, no member of which receives remuneration in any form for time or effort devoted to the promotion and management of the bingo games or lottery (raffle tickets); and

(3) all net proceeds derived from such gambling activities are used exclusively for the purposes stated in the sponsoring organization's application to conduct such activities, which purposes shall be limited to educational, charitable, religious, fraternal or civic purposes.

(c) (1) An organization which meets the requirements of Subsection (b) and which desires to conduct or operate gambling activities shall apply for a permit to conduct such activities from the Director of the Department of Revenue and Taxation.

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(A) The application form *shall* include:

- (i) the name and address of the applicant;
- (ii) the evidences on which the applicant relies in order to qualify under Subsection (b);
- (iii) the names of three (3) officers or members of the organization who *shall* be responsible for the operation of the gambling activities;
- (iv) the address of the premises on which the operation of the gambling activities will be held; and
- (v) the uses to which the net proceeds will be applied.

(B) Upon receipt of such application the Director shall determine whether it is in conformity with this Section.

(i) If so, the Director shall forthwith issue a permit. The permit shall be valid for one (1) year from the date of its issuance. The Director shall retain a copy of the application.

(ii) If there is any change subsequent to the making of the application for a permit in the facts set forth therein, the applicant shall forthwith notify the Director of such change, and the Director shall issue a permit if the applicant is qualified, or, if a permit has already been issued and the change in the facts set forth in the application disqualify the applicant, the Director shall revoke such permit.

(2) If an application for a permit to conduct gambling activities is not acted upon within thirty (30) days after submission, or if the organization is denied a permit, or if a permit is revoked, any person named on the application may obtain a judicial review of such inaction, refusal or

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revocation by filing a petition for review in the Superior Court.

(A) Such petition for review shall be filed within ten (10) days of the refusal or revocation of a permit or within ten (10) days of the expiration of the thirty (30) day period.

(B) If the court is satisfied that there was no reasonable ground for refusing a permit and that the applicant was not prohibited by law from holding gambling activities, he may direct that such permit be issued.

(d) The Director shall immediately revoke a permit in case of violation of any provision of this Section, and the Director shall not issue any permit to such permittee within three (3) years following the date of such violation.

(1) Any person aggrieved by such action may appeal to the Superior Court provided that such appeal is filed within twenty (20) days following receipt of notification by the Director.

(2) The court shall hear all pertinent evidence and determine the facts; upon the facts so determined the court shall annul such action or make such decision as equity may require. This remedy shall be exclusive.

(e) (1) An organization which is issued a permit shall submit a report to the Director on a form to be approved by him within thirty (30) days of the expiration of the permit. Such form shall require information concerning the nature of the gambling activities held, the amount of money received, the expenses incurred in connection with such activities, the net proceeds of such activities, and the uses to which the net proceeds were applied.

(2) The organization shall maintain and keep such books and records as may be necessary to substantiate the particulars of such report; such books and records shall be preserved for at least one (1) year after such report is submitted and shall be available for inspection.

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(3) The report shall be certified to by the three (3) persons designated in the permit application as responsible for such gambling activities and by an accountant.

(4) Failure to file such a report shall constitute sufficient grounds for refusal to renew a permit to conduct gambling activities.

(f) As used in this Section:

(1) Bingo Games means a specific game of chance, commonly known as bingo, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random;

(2) Lottery (Raffle Tickets) means a plan whereby prizes are distributed by chance among persons who have paid or promised to pay anything of monetary value for a chance to win a prize; and

(3) Gambling Activities means either a lottery (raffle tickets) or bingo games and does not include any form of casino gambling.

(g) Notwithstanding any other law, rule or regulation, a non-profit tax exempt organization issued a permit pursuant to Subsection (c) may conduct bingo operations on any premises where it is authorized to do so by the Department of Revenue and Taxation, regardless of whether the premises is owned or leased by it or another non-profit tax exempt organization. However, the use of such premises *shall not* be conditioned on the payment of a share of bingo proceeds.

(h) Notwithstanding any other law, rule or regulation, a bingo licensee, as that term is used in Title 3 GAR Chapter 7, is required to own all equipment used to conduct the bingo games or lease such equipment from an organization licensed with the Department of Revenue and Taxation (DRT). However, the use of such premises *shall not* be conditioned on the payment of a share of bingo proceeds.

(i) Notwithstanding any other law, rule or regulation, a bingo licensee, as that term is used in Title 3 GAR Chapter 7, *shall* file an annual itemized report with the Gaming Control

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Commission each year disclosing the gross receipts and all expenses and expenditures associated with the operation of the bingo games. Such report *shall* be filed on or before April 15th of every year. The report must be prepared on the form prescribed and provided by the Gaming Control Commission.

(j) Notwithstanding any other law, rule or regulation, no person or organization may receive any money or other consideration for salary, expense money, or any other fees for the operation of or assistance with regard to any bingo game, except that a member or auxiliary member of the licensed non-profit tax exempt organization who assists in the conducting of such games on such day *shall* be compensated based on the prevailing wages according to the member's position.

SOURCE: G.P.C. §§ 319-329. Subsection (b)(2) repealed and reenacted by P.L. 14-140:32 (Aug. 31, 1978); subsection (f) added by P.L. 14-140:31 (Aug. 31, 1978). Subsection (c)(1)(A) amended by P.L. 34-152:1 (Dec. 28, 2018). Subsections (g), (h), (i) and (j) added by P.L. 34-152:2, 3, 4, 5 (Dec. 28, 2018).

COMMENT: Section 64.70 continues and expands the exception and registration requirements, which permits the conduct of gambling by certain charitable, fraternal, educational or religious organizations. However, there have been significant changes made. It is the Director of Revenue and Taxation who now issues the required permit, not the Governor. Also, if a permit is denied or delayed for longer than thirty (30) days judicial review is permitted.

2019 NOTE: P.L. 34-152:6 (Dec. 28, 2018) provides that The Department of Revenue and Taxation shall, within thirty (30) days of enactment of this Act, promulgate rules and regulations or amend existing rules and regulations to enforce the provisions of this Act.

2017 NOTE: Subsection/subitem designations altered/added subsections (c), (d), and (e) pursuant to authority of 1 GCA § 1606.

2014 NOTE: Prior print publications of the GCA have included the following language in the Comment:

Section 64.70 provides that certain gambling activities are not punishable if sponsored, promoted and conducted by an organization which has been issued a permit to conduct such activities. Subsection (f) defines the types of gambling activities in question.

Section 64.70(b) sets forth the circumstances under which the Director of the Department of Revenue and Taxation shall issue permits to conduct gambling activities. The amendment to

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Subsection (b)(2) deleted the words “gambling activities” each time they appeared in the subsection, and substituted in their place the words “bingo games or lottery (raffle tickets)”.

This language has been moved to a Note annotation, as the Comments in this Chapter are the original annotations from the Criminal and Correctional Code (1977), enacted by P.L. 32-185 (Sept. 2, 1976).
