

REFERENCE TITLE: sports betting; tribes; liquor establishments

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1158

Introduced by
Senator Borrelli: Representatives Biasiucci, Finchem

AN ACT

AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; AMENDING SECTIONS 13-3301, 13-3302, 13-3305 AND 42-5073, ARIZONA REVISED STATUTES; RELATING TO AMUSEMENT AND SPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 5, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:

4 CHAPTER 10

5 SPORTS BETTING

6 ARTICLE 1. GENERAL PROVISIONS

7 5-1201. Sports betting; authority to contract with licensed
8 liquor establishments; requirements

9 A. EACH FEDERALLY RECOGNIZED INDIAN TRIBE THAT HAS A TRIBAL-STATE
10 GAMING COMPACT ENTERED INTO PURSUANT TO CHAPTER 6 OF THIS TITLE AND THAT
11 HAS TRIBAL HEADQUARTERS ON INDIAN LANDS LOCATED IN THIS STATE MAY OPERATE
12 SPORTS BETTING AS DEFINED IN SECTION 13-3301. NO OTHER PERSON OR ENTITY
13 MAY OPERATE SPORTS BETTING.

14 B. AN INDIAN TRIBE THAT IS AUTHORIZED TO OPERATE SPORTS BETTING
15 PURSUANT TO THIS SECTION MAY OPERATE SPORTS BETTING THROUGH KIOSKS OR
16 SIMILAR MACHINES THAT ARE LOCATED AT ONE OR MORE PREMISES THAT HAVE A BAR
17 LICENSE, A BEER AND WINE BAR LICENSE OR A PRIVATE CLUB LICENSE THAT IS
18 ISSUED PURSUANT TO TITLE 4 AND MAY ENTER INTO A LEASE OR A RENTAL
19 AGREEMENT FOR THE PURPOSE OF OPERATING SPORTS BETTING WITH A PERSON THAT
20 HOLDS A BAR LICENSE, A BEER AND WINE BAR LICENSE OR A PRIVATE CLUB
21 LICENSE. THIS SUBSECTION DOES NOT ALLOW AN INDIAN TRIBE TO OPERATE MORE
22 GAMING DEVICES THAN OTHERWISE ALLOCATED UNDER SECTION 5-601.02. THIS
23 SUBSECTION SHALL BE CONSTRUED IN A MANNER THAT IS CONSISTENT WITH THE
24 GAMING DEVICE OPERATING RIGHTS PRESCRIBED IN SECTION 5-601.02.

25 C. IF AN INDIAN TRIBE ENTERS INTO AN AGREEMENT FOR RENT, LEASE OR
26 LICENSING OR FOR THE PROVISION OF MARKETING, TECHNICAL, ADMINISTRATIVE OR
27 MANAGEMENT SERVICES, THESE AGREEMENTS SHALL AFFIRM THAT THE INDIAN TRIBE
28 IS THE SOLE AND EXCLUSIVE OPERATOR OF ALL SPORTS BETTING ACTIVITY THAT IS
29 AUTHORIZED UNDER THIS CHAPTER. ANY AGREEMENT THAT DOES NOT COMPLY WITH
30 THIS SUBSECTION IS OF NO FORCE AND EFFECT.

31 D. THIS CHAPTER DOES NOT AMEND ANY TRIBAL-STATE GAMING COMPACT
32 EXECUTED PURSUANT TO SECTION 5-601.02.

33 5-1202. Department of gaming; sports betting licensing; rules

34 A. TO ENSURE HONESTY AND INTEGRITY IN THE GAMBLING ACTIVITY, THE
35 DEPARTMENT OF GAMING SHALL REGULATE SPORTS BETTING UNDER THIS CHAPTER IN A
36 MANNER THAT IS CONSISTENT WITH THE REGULATION OF TRIBAL GAMING PURSUANT TO
37 SECTION 5-602. AN INDIAN TRIBE MAY OPERATE SPORTS BETTING THROUGH A
38 TRIBAL GAMING OPERATOR THAT IS WHOLLY OWNED BY THE INDIAN TRIBE. THE
39 TRIBAL GAMING OPERATOR IS SUBJECT TO LICENSURE.

40 B. THE DEPARTMENT OF GAMING MAY ADOPT RULES TO CARRY OUT THE
41 PURPOSES OF THIS SECTION.

42 C. FOR THE PURPOSES OF LICENSURE, THE OWNER, PARTNER, SHAREHOLDERS
43 OR BENEFICIARIES OF THE TRIBAL GAMING OPERATOR DO NOT INCLUDE THE MEMBERS
44 OR GOVERNMENT OFFICIALS OF AN INDIAN TRIBE.

1 Sec. 2. Section 13-3301, Arizona Revised Statutes, is amended to
2 read:

3 13-3301. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Amusement gambling" means gambling involving a device, game or
6 contest which is played for entertainment if all of the following apply:

7 (a) The player or players actively participate in the game or
8 contest or with the device.

9 (b) The outcome is not in the control to any material degree of any
10 person other than the player or players.

11 (c) The prizes are not offered as a lure to separate the player or
12 players from their money.

13 (d) Any of the following:

14 (i) No benefit is given to the player or players other than an
15 immediate and unrecorded right to replay which is not exchangeable for
16 value.

17 (ii) The gambling is an athletic event and no person other than the
18 player or players derives a profit or chance of a profit from the money
19 paid to gamble by the player or players.

20 (iii) The gambling is an intellectual contest or event, the money
21 paid to gamble is part of an established purchase price for a product, no
22 increment has been added to the price in connection with the gambling
23 event and no drawing or lottery is held to determine the winner or
24 winners.

25 (iv) Skill and not chance is clearly the predominant factor in the
26 game and the odds of winning the game based upon chance cannot be altered,
27 provided the game complies with any licensing or regulatory requirements
28 by the jurisdiction in which it is operated, no benefit for a single win
29 is given to the player or players other than a merchandise prize which has
30 a wholesale fair market value of less than ~~ten dollars~~ \$10 or coupons
31 which are redeemable only at the place of play and only for a merchandise
32 prize which has a fair market value of less than ~~ten dollars~~ \$10 and,
33 regardless of the number of wins, no aggregate of coupons may be redeemed
34 for a merchandise prize with a wholesale fair market value of greater than
35 ~~five hundred fifty dollars~~ \$550.

36 2. "Conducted as a business" means gambling that is engaged in with
37 the object of gain, benefit or advantage, either direct or indirect,
38 realized or unrealized, but not when incidental to a bona fide social
39 relationship.

40 3. "Crane game" means an amusement machine which is operated by
41 player controlled buttons, control sticks or other means, or a combination
42 of the buttons or controls, which is activated by coin insertion into the
43 machine and where the player attempts to successfully retrieve prizes with
44 a mechanical or electromechanical claw or device by positioning the claw
45 or device over a prize.

1 4. "Gambling" or "gamble" means one act of risking or giving
2 something of value for the opportunity to obtain a benefit from a game or
3 contest of chance or skill or a future contingent event but does not
4 include bona fide business transactions which are valid under the law of
5 contracts including contracts for the purchase or sale at a future date of
6 securities or commodities, contracts of indemnity or guarantee and life,
7 health or accident insurance.

8 5. "Player" means a natural person who participates in gambling.

9 6. "Regulated gambling" means either:

10 (a) Gambling conducted in accordance with a tribal-state gaming
11 compact or otherwise in accordance with the requirements of the Indian
12 gaming regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United
13 States Code sections 2701 through 2721 and 18 United States Code sections
14 1166 through 1168); or

15 (b) Gambling to which all of the following apply:

16 (i) It is operated and controlled in accordance with a statute,
17 rule or order of this state or of the United States.

18 (ii) All federal, state or local taxes, fees and charges in lieu of
19 taxes have been paid by the authorized person or entity on any activity
20 arising out of or in connection with the gambling.

21 (iii) If conducted by an organization which is exempt from taxation
22 of income under section 501 of the internal revenue code, the
23 organization's records are open to public inspection.

24 (iv) ~~Beginning on June 1, 2003,~~ None of the players is under
25 twenty-one years of age.

26 7. "Social gambling" means gambling that is not conducted as a
27 business and that involves players who compete on equal terms with each
28 other in a gamble if all of the following apply:

29 (a) No player receives, or becomes entitled to receive, any
30 benefit, directly or indirectly, other than the player's winnings from the
31 gamble.

32 (b) No other person receives or becomes entitled to receive any
33 benefit, directly or indirectly, from the gambling activity, including
34 benefits of proprietorship, management or unequal advantage or odds in a
35 series of gambles.

36 (c) ~~Until June 1, 2003, none of the players is below the age of~~
37 ~~majority. Beginning on June 1, 2003,~~ None of the players is under
38 twenty-one years of age.

39 (d) Players "compete on equal terms with each other in a gamble"
40 when no player enjoys an advantage over any other player in the gamble
41 under the conditions or rules of the game or contest.

42 8. "SPORTS BETTING":

43 (a) MEANS THE PLACEMENT OF A WAGER ON THE OUTCOME OF A SPORTING
44 EVENT WHERE A WINNING OUTCOME IS BASED ON THE SCORE, POINT TOTAL, POINT
45 SPREAD OR PERFORMANCE OF A TEAM IN A TEAM SPORT OR ON THE SCORE, POINT

1 TOTAL, POINT SPREAD OR PERFORMANCE OF AN INDIVIDUAL ATHLETE IN A NON-TEAM
2 SPORT.

3 (b) DOES NOT INCLUDE WAGERING ON SPORTING EVENTS THAT IS PROHIBITED
4 BY THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION.

5 Sec. 3. Section 13-3302, Arizona Revised Statutes, is amended to
6 read:

7 13-3302. Exclusions

8 A. The following conduct is not unlawful under this chapter:

9 1. Amusement gambling.

10 2. Social gambling.

11 3. Regulated gambling if the gambling is conducted in accordance
12 with the statutes, rules or orders governing the gambling.

13 4. Gambling that is conducted at state, county or district fairs
14 and that complies with section 13-3301, paragraph 1, subdivision (d).

15 5. SPORTS BETTING THAT IS CONDUCTED PURSUANT TO TITLE 5,
16 CHAPTER 10.

17 B. An organization that has qualified for an exemption from
18 taxation of income under section 501 of the internal revenue code may
19 conduct a raffle that is subject to the following restrictions:

20 1. The nonprofit organization shall maintain this status and no
21 member, director, officer, employee or agent of the nonprofit organization
22 may receive any direct or indirect pecuniary benefit other than being able
23 to participate in the raffle on a basis equal to all other participants.

24 2. The nonprofit organization has been in existence continuously in
25 this state for a five-year period immediately before conducting the
26 raffle.

27 3. ~~NO~~ A person, except FOR a bona fide local member of the
28 sponsoring organization, may NOT participate directly or indirectly in the
29 management, sales or operation of the raffle.

30 4. Paragraph 1 or 3 of this subsection does not prohibit:

31 (a) A licensed general hospital, a licensed special hospital or a
32 foundation established to support cardiovascular medical research that is
33 exempt from taxation of income under section 501(c)(3) of the internal
34 revenue code from contracting with an outside agent who participates in
35 the management, sales or operation of the raffle if the proceeds of the
36 raffle are used to fund medical research, graduate medical education or
37 indigent care and the raffles are conducted no more than three times per
38 calendar year. The maximum fee for an outside agent shall not exceed
39 fifteen percent of the net proceeds of the raffle.

40 (b) An entity that is exempt from taxation of income under section
41 501(c)(3) of the internal revenue code and that has at least a twenty-year
42 history of providing comprehensive services to prevent child abuse and to
43 provide services and advocacy for victims of child abuse from contracting
44 with an outside agent who participates in the management, sales or
45 operation of the raffle if the proceeds of the raffle are used to provide

1 comprehensive services to prevent child abuse and to provide services and
2 advocacy for victims of child abuse and the raffles are conducted no more
3 than three times per calendar year. The maximum fee for an outside agent
4 shall not exceed fifteen percent of the net proceeds of the raffle.

5 C. A state, county or local historical society designated by this
6 state or a county, city or town to conduct a raffle may conduct the raffle
7 subject to the following conditions:

8 1. A member, director, officer, employee or agent of the historical
9 society may not receive any direct or indirect pecuniary benefit other
10 than being able to participate in the raffle on a basis equal to all other
11 participants.

12 2. The historical society must have been in existence continuously
13 in this state for a five-year period immediately before conducting the
14 raffle.

15 3. A person, except for a bona fide local member of the sponsoring
16 historical society, may not participate directly or indirectly in the
17 management, sales or operation of the raffle.

18 D. A nonprofit organization that is a booster club, a civic club or
19 a political club or political organization that is formally affiliated
20 with and recognized by a political party in this state may conduct a
21 raffle that is subject to the following restrictions:

22 1. A member, director, officer, employee or agent of the club or
23 organization may not receive any direct or indirect pecuniary benefit
24 other than being able to participate in the raffle on a basis equal to all
25 other participants.

26 2. A person, except for a bona fide local member of the sponsoring
27 club or organization, may not participate directly or indirectly in the
28 management, sales or operation of the raffle.

29 3. The maximum annual benefit that the club or organization
30 receives for all raffles is ~~ten thousand dollars~~ \$10,000.

31 4. The club or organization is organized and operated exclusively
32 for pleasure, recreation or other nonprofit purposes and no part of the
33 club's or organization's net earnings inures to the personal benefit of
34 any member, director, officer, employee or agent of the club or
35 organization.

36 Sec. 4. Section 13-3305, Arizona Revised Statutes, is amended to
37 read:

38 13-3305. Betting and wagering; classification

39 A. Subject to the exceptions contained in ~~section~~ SECTIONS 5-112
40 AND 5-1201, no person may engage for a fee, property, salary or reward in
41 the business of accepting, recording or registering any bet, purported
42 bet, wager or purported wager or engage for a fee, property, salary or
43 reward in the business of selling wagering pools or purported wagering
44 pools with respect to the result or purported result of any race, ~~sporting~~

1 ~~event~~, contest or other game of skill or chance or any other unknown or
2 contingent future event or occurrence whatsoever.

3 B. A person shall not directly or indirectly knowingly accept for a
4 fee, property, salary or reward anything of value from another to be
5 transmitted or delivered for wagering or betting on the results of a race,
6 sporting event, contest or other game of skill or chance or any other
7 unknown or contingent future event or occurrence whatsoever conducted
8 within or without this state or anything of value as reimbursement for the
9 prior making of such a wager or bet on behalf of another person.

10 C. A person who violates this section is guilty of a class 1
11 misdemeanor.

12 Sec. 5. Section 42-5073, Arizona Revised Statutes, is amended to
13 read:

14 42-5073. Amusement classification

15 A. The amusement classification is comprised of the business of
16 operating or conducting theaters, movies, operas, shows of any type or
17 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
18 menageries, fairs, races, contests, games, ~~THE NET PROCEEDS FROM SPORTS~~
19 ~~BETTING THAT IS CONDUCTED OUTSIDE A TRIBAL CASINO~~, billiard or pool
20 parlors, bowling alleys, public dances, dance halls, boxing and wrestling
21 matches, skating rinks, tennis courts, except as provided in subsection B
22 of this section, video games, pinball machines or sports events or any
23 other business charging admission or user fees for exhibition, amusement
24 or entertainment, including the operation or sponsorship of events by a
25 tourism and sports authority under title 5, chapter 8. For the purposes
26 of this section, admission or user fees include, ~~but are not limited to~~,
27 any revenues derived from any form of contractual agreement for rights to
28 or use of premium or special seating facilities or arrangements. The
29 amusement classification does not include:

30 1. Activities or projects of bona fide religious or educational
31 institutions.

32 2. Private or group instructional activities. For the purposes of
33 this paragraph, "private or group instructional activities" includes, ~~but~~
34 ~~is not limited to~~, performing arts, martial arts, gymnastics and aerobic
35 instruction.

36 3. The operation or sponsorship of events by the Arizona exposition
37 and state fair board or county fair commissions.

38 4. A musical, dramatic or dance group or a botanical garden, museum
39 or zoo that is qualified as a nonprofit charitable organization under
40 section 501(c)(3) of the United States internal revenue code if no part of
41 its net income inures to the benefit of any private shareholder or
42 individual.

43 5. Exhibition events in this state sponsored, conducted or operated
44 by a nonprofit organization that is exempt from taxation under section
45 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the

1 organization is associated with major league baseball teams or a national
2 touring professional golfing association and no part of the organization's
3 net earnings inures to the benefit of any private shareholder or
4 individual. This paragraph does not apply to an organization that is
5 owned, managed or controlled, in whole or in part, by a major league
6 baseball team, or its owners, officers, employees or agents, or by a major
7 league baseball association or professional golfing association, or its
8 owners, officers, employees or agents, unless the organization conducted
9 or operated exhibition events in this state before January 1, 2018 that
10 were exempt from taxation under this section.

11 6. Operating or sponsoring rodeos that feature primarily farm and
12 ranch animals in this state and that are sponsored, conducted or operated
13 by a nonprofit organization that is exempt from taxation under section
14 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
15 revenue code if no part of the organization's net earnings inures to the
16 benefit of any private shareholder or individual.

17 7. Sales of admissions to intercollegiate football contests if the
18 contests are both:

19 (a) Operated by a nonprofit organization that is exempt from
20 taxation under section 501(c)(3) of the internal revenue code and no part
21 of the organization's net earnings inures to the benefit of any private
22 shareholder or individual.

23 (b) Not held in a multipurpose facility that is owned or operated
24 by the tourism and sports authority pursuant to title 5, chapter 8.

25 8. Activities and events of, or fees and assessments received by, a
26 homeowners organization from persons who are members of the organization
27 or accompanied guests of members. For the purposes of this paragraph,
28 "homeowners organization" means a mandatory membership organization
29 comprised of owners of residential property within a specified residential
30 real estate subdivision development or similar area and established to own
31 property for the benefit of its members where both of the following apply:

32 (a) No part of the organization's net earnings inures to the
33 benefit of any private shareholder or individual.

34 (b) The primary purpose of the organization is to provide for the
35 acquisition, construction, management, maintenance or care of organization
36 property.

37 9. Activities and events of, or fees received by, a nonprofit
38 organization that is exempt from taxation under section 501(c)(6) of the
39 internal revenue code if the organization produces, organizes or promotes
40 cultural or civic related festivals or events and no part of the
41 organization's net earnings inures to the benefit of any private
42 shareholder or individual.

43 10. Arranging an amusement activity as a service to a person's
44 customers if that person is not otherwise engaged in the business of
45 operating or conducting an amusement personally or through others. This

1 exception does not apply to businesses that operate or conduct amusements
2 pursuant to customer orders and send the billings and receive the payments
3 associated with that activity, including when the amusement is performed
4 by third-party independent contractors. For the purposes of this
5 paragraph, "arranging" includes billing for or collecting amusement
6 charges from a person's customers on behalf of the persons providing the
7 amusement.

8 B. The tax base for the amusement classification is the gross
9 proceeds of sales or gross income derived from the business, except that
10 the following shall be deducted from the tax base:

11 1. The gross proceeds of sales or gross income derived from
12 memberships, including initiation fees, that provide for the right to use
13 a health or fitness establishment or a private recreational establishment,
14 or any portion of an establishment, including tennis and other racquet
15 courts at that establishment, for participatory purposes for twenty-eight
16 days or more and fees charged for use of the health or fitness
17 establishment or private recreational establishment by bona fide
18 accompanied guests of members, except that this paragraph does not include
19 additional fees, other than initiation fees, charged by a health or
20 fitness establishment or a private recreational establishment for purposes
21 other than memberships that provide for the right to use a health or
22 fitness establishment or private recreational establishment, or any
23 portion of an establishment, for participatory purposes for twenty-eight
24 days or more and accompanied guest use fees.

25 2. Amounts that are exempt under section 5-111, subsection G.

26 3. The gross proceeds of sales or gross income derived from
27 membership fees, including initiation fees, that provide for the right to
28 use a transient lodging recreational establishment, including golf courses
29 and tennis and other racquet courts at that establishment, for
30 participatory purposes for twenty-eight days or more, except that this
31 paragraph does not include additional fees, other than initiation fees,
32 that are charged by a transient lodging recreational establishment for
33 purposes other than memberships and that provide for the right to use a
34 transient lodging recreational establishment or any portion of the
35 establishment for participatory purposes for twenty-eight days or more.

36 4. The gross proceeds of sales or gross income derived from sales
37 to persons engaged in the business of transient lodging classified under
38 section 42-5070, if all of the following apply:

39 (a) The persons who are engaged in the transient lodging business
40 sell the amusement to another person for consideration.

41 (b) The consideration received by the transient lodging business is
42 equal to or greater than the amount to be deducted under this subsection.

43 (c) The transient lodging business has provided an exemption
44 certificate to the person engaging in business under this section.

1 5. The gross proceeds of sales or gross income derived from:

2 (a) Business activity that is properly included in any other
3 business classification under this article and that is taxable to the
4 person engaged in that classification, but the gross proceeds of sales or
5 gross income to be deducted shall not exceed the consideration paid to the
6 person conducting the activity.

7 (b) Business activity that is arranged by the person who is subject
8 to tax under this section and that is not taxable to the person conducting
9 the activity due to an exclusion, exemption or deduction under this
10 section or section 42-5062, but the gross proceeds of sales or gross
11 income to be deducted shall not exceed the consideration paid to the
12 person conducting the activity.

13 (c) Business activity that is arranged by a person who is subject
14 to tax under this section and that is taxable to another person under this
15 section who conducts the activity, but the gross proceeds of sales or
16 gross income to be deducted shall not exceed the consideration paid to the
17 person conducting the activity.

18 6. The gross proceeds of sales or gross income derived from entry
19 fees paid by participants for events that either:

20 (a) Until March 1, 2017, consist of a run, walk, swim or bicycle
21 ride or a similar event, or any combination of these events.

22 (b) Are operated or conducted by nonprofit organizations that are
23 exempt from taxation under section 501(c)(3) of the internal revenue code
24 and of which no part of the organization's net earnings inures to the
25 benefit of any private shareholder or individual, if the event consists of
26 a run, walk, swim or bicycle ride or a similar event, or any combination
27 of these events.

28 7. ALL OF THE AMOUNTS RECEIVED BY AN INDIAN TRIBE FROM THE GROSS
29 AMOUNT OF MONIES RECEIVED FOR THE CONDUCT OF SPORTS BETTING, AND ALL
30 AMOUNTS HELD BY AN INDIAN TRIBE FOR PAYMENT OF WINNINGS TO SPORTS BETTING
31 PATRONS ARE EXEMPT FROM THIS CHAPTER. AMOUNTS SUBJECT TO THIS CHAPTER OR
32 AMOUNTS THAT ARE SUBJECT TO ANY MUNICIPAL TAX CODE, OR BOTH, SHALL NOT
33 RESULT IN A COMBINED STATE, COUNTY AND CITY TAX LIABILITY THAT EXCEEDS SIX
34 AND SEVENTY-FIVE ONE HUNDREDTHS PERCENT OF ADJUSTED GROSS RECEIPTS. THE
35 TRIBAL GAMING OPERATOR SHALL PAY AND BE RESPONSIBLE FOR PAYMENTS OF THE
36 TRIBAL GAMING OPERATOR'S TAX LIABILITY UNDER THIS SUBSECTION. FOR THE
37 PURPOSES OF THIS PARAGRAPH, THE OWNER, PARTNER, SHAREHOLDERS OR
38 BENEFICIARIES OF THE TRIBAL GAMING OPERATOR DO NOT INCLUDE THE MEMBERS OR
39 GOVERNMENT OFFICIALS OF AN INDIAN TRIBE. FOR THE PURPOSES OF THIS
40 SUBSECTION, FOR A BUSINESS THAT IS OPERATING SPORTS BETTING PURSUANT TO
41 TITLE 5, CHAPTER 10, "GROSS INCOME" AND "GROSS PROCEEDS OF SALES" MEANS
42 THE RECEIPTS REMAINING AFTER DEDUCTING THE MONIES PAID FOR WINNINGS FROM
43 GROSS RECEIPTS.

1 C. For the purposes of subsection B of this section:

2 1. "Health or fitness establishment" means a facility whose primary
3 purpose is to provide facilities, equipment, instruction or education to
4 promote the health and fitness of its members and at least eighty percent
5 of the monthly gross revenue of the facility is received through accounts
6 of memberships and accompanied guest use fees that provide for the right
7 to use the facility, or any portion of the facility, under the terms of
8 the membership agreement for participatory purposes for twenty-eight days
9 or more.

10 2. "Private recreational establishment" means a facility whose
11 primary purpose is to provide recreational facilities, such as tennis,
12 golf and swimming, for its members and where at least eighty percent of
13 the monthly gross revenue of the facility is received through accounts of
14 memberships and accompanied guest use fees that provide for the right to
15 use the facility, or any portion of the facility, for participatory
16 purposes for twenty-eight days or more.

17 3. "Transient lodging recreational establishment" means a facility
18 whose primary purpose is to provide facilities for transient lodging, that
19 is subject to taxation under this chapter and that also provides
20 recreational facilities, such as tennis, golf and swimming, for members
21 for a period of twenty-eight days or more.

22 D. Until December 31, 1988, the revenues from hayrides and other
23 animal-drawn amusement rides, from horseback riding and riding instruction
24 and from recreational tours using motor vehicles designed to operate on
25 and off public highways are exempt from the tax imposed by this section.
26 Beginning January 1, 1989, the gross proceeds or gross income from
27 hayrides and other animal-drawn amusement rides, from horseback riding and
28 from recreational tours using motor vehicles designed to operate on and
29 off public highways are subject to taxation under this section. Tax
30 liabilities, penalties and interest paid for taxable periods before
31 January 1, 1989 shall not be refunded unless the taxpayer requesting the
32 refund provides proof satisfactory to the department that the taxes will
33 be returned to the customer.

34 E. If a person is engaged in the business of offering both
35 exhibition, amusement or entertainment and private or group instructional
36 activities, the person's books shall be kept to show separately the gross
37 income from exhibition, amusement or entertainment and the gross income
38 from instructional activities. If the books do not provide this separate
39 accounting, the tax is imposed on the person's total gross income from the
40 business.

41 F. The department shall separately account for revenues collected
42 under the amusement classification for the purposes of section 42-5029,
43 subsection D, paragraph 4, subdivision (b).

1 G. For the purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the amusement
3 classification from sales of admissions to:

4 1. Events that are held in a multipurpose facility that is owned or
5 operated by the tourism and sports authority pursuant to title 5, chapter
6 8, including intercollegiate football contests that are operated by a
7 nonprofit organization that is exempt from taxation under section
8 501(c)(3) of the internal revenue code.

9 2. Professional football contests that are held in a stadium
10 located on the campus of an institution under the jurisdiction of the
11 Arizona board of regents.

12 Sec. 6. Emergency

13 This act is an emergency measure that is necessary to preserve the
14 public peace, health or safety and is operative immediately as provided by
15 law.