

COMPLIMENTARY EXCERPT OF

CONTESTS AND SWEEPSTAKES LAW

A Guide Through the Legal Jungle®
Practice Manual

CONTESTS AND SWEEPSTAKES LAW

A GUIDE
THROUGH THE
LEGAL JUNGLE®
PRACTICE
MANUAL

JOY R. BUTLER

SASHAY COMMUNICATIONS

WHAT'S INSIDE THIS COMPLIMENTARY EXCERPT:

- Checklist of Legal Issues for Contests and Sweepstakes
- Guidance on Official Rules and Promotion Entry Criteria
- Sample of State-by-State Contests and Sweepstakes Law Summaries
- Samples of Tables Presenting States' Registration, Raffle, Bingo, and Promotion-Related Requirements



CONTESTS AND SWEEPSTAKES

— ✕ LAW ✕ —

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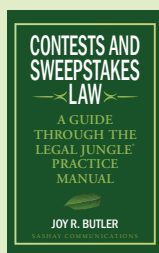
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Book Description



Contests and Sweepstakes Law: A Guide Through the Legal Jungle Practice Manual

This book provides legal compliance requirements, best practice suggestions, and risk-minimization techniques for contests, sweepstakes, and other prize promotions.

Authored by Joy R. Butler, Published by Sashay Communications, ISBN: 978-9672940-6-3, 498 pages, Hardcover, Trim Size 6 x 9, Retail Price \$225. Available to consumers at online and retail bookstores and from the publisher via the website www.GuideThroughtheLegalJungle.com.

With this Book, You Can

- ✕ Review or learn the basics including how entry requirements, winner selection methods, prize offerings, and state gambling prohibitions affect your contests and sweepstakes
- ✕ Go beyond the basics and review the impact of elements such as public voting, user-generated content, and state prize promotion laws
- ✕ Quickly locate practical answers to your immediate questions with the extensive table of contents, the checklist, and cross-references throughout the book

Attorneys and Legal Professionals, Use the Book to

- ✕ Jumpstart your legal analysis and save hours of research time with the synopsis and citations provided for United States federal law and for the laws of each state

Marketing and Business Professionals, Use the Book to

- ✕ Get comprehensive contests and sweepstakes legal information for less than the average cost of one billable hour with a promotions attorney
- ✕ Make the best use of your interactions with your contests and sweepstakes lawyer by identifying the components of your promotion that require legal review

Book Highlights

- ✕ Separate detailed discussion of each state's contests and sweepstakes laws
- ✕ Extensive table of contents, an annotated checklist, and cross-references facilitate skimming and locating specific information quickly
- ✕ Appendices that present information about the states' registration, raffle, bingo, and other promotion-related laws in easy-to-compare table form
- ✕ Best practice suggestions for
 - promotion rules
 - social media and online promotions
 - use of public voting
 - avoidance of copyright and rights clearance problems
 - prize awards of real estate, travel, and luxury items
 - refer a friend promotions
 - use of direct mail and telemarketing
 - children as participants
 - fantasy sports competitions
 - partnerships with charitable causes



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About the Author

Joy R. Butler is the author of *Contests and Sweepstakes Law: A Guide Through the Legal Jungle Practice Manual*. Ms. Butler is a transactional attorney with over twenty years of experience. As part of her transactional and advisory law firm practice, she provides counsel for a variety of contests and sweepstakes sponsors including online companies, Fortune 500 companies, professional sports teams, hospitality companies, television networks, and publishing companies.

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Other books authored by Ms. Butler address internet law and permission copyright issues. Her Guide Through the Legal Jungle® publications have been adopted into academic university curricula, used as a reference at the Library of Congress, and served as a source for Ms. Butler's quotes in periodicals such as *The New York Times*, *Washington Lawyer*, *Associated Press*, *PR Week*, *Forbes*, and *Inc. Magazine*.

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Other Publications by Joy R. Butler

The Permission Seeker's Guide Through the Legal Jungle: Clearing Copyrights, Trademarks and Other Rights for Entertainment and Media Productions

The Cyber Citizen's Guide Through the Legal Jungle: Internet Law for Your Professional Online Presence

Excerpts

SELECTION OF EXCERPTS. *Contests and Sweepstakes Law: A Guide Through the Legal Jungle Practice Manual* consists of three parts and an appendix. This complimentary book excerpt includes an excerpt or partial sample from each of the book's three parts and from the appendix.

Part One, Introduction, includes a checklist that helps readers spot legal issues and then refers them to subsequent sections of the book for greater explanation. **Read Excerpt from Part One.**

Part Two, Overview, addresses the basic legal issues one should consider when launching a promotion in the United States. It explains the anti-gambling, advertising, contract, copyright, and other diverse issues that impact sponsors. Part Two also includes guidance for multiple types of promotions including skill-based contests, in-package sweepstakes, fantasy sports competitions, raffles, and cause marketing. **Read Excerpt from Part Two.**

Part Three, Summaries of State Laws, offers a separate summary for each state and for the District of Columbia discussing the laws most relevant to contests and sweepstakes in that state. **Read Excerpt from Part Three.**

The Appendices include information about the states' registration, raffle, bingo, and other promotion-related laws presented in table form. **Read Partial Sample of Tables from the Appendices.**



CHAPTER 2

Checklist of Legal Issues for Contests and Sweepstakes

The following checklist includes a list of considerations as well as do's and don'ts. By necessity, the discussion within the checklist is cryptic. The checklist refers readers to subsequent sections of this Guide for greater explanation. The checklist is not an exhaustive list of every legal and practical issue that may be relevant to a promotion.

What Type of Promotion Is the Sponsor Offering?

Is the promotion a contest or a sweepstakes? Making this determination is important for structuring the promotion and avoiding offering an illegal lottery or gambling game. (Section 3.2 of this Guide) A lottery combines the three elements of chance, prize, and consideration. With few exceptions, a legal promotion may have only two of these three elements. Sweepstakes have the elements of chance and prize. (Section 3.1.2 of this Guide) Contests have the elements of prize and potentially consideration. (Section 3.1.3 of this Guide)

- **Does the promotion include the element of chance?** The promotion has the element of chance if the sponsor selects a winner randomly. (Section 3.4.1 of this Guide) The opposite of selecting a winner based on chance is selecting a winner based on skill. (Section 3.4.2 of this Guide) A promotion that includes chance typically may not charge any type of entry fee. (Section 3.5 of this Guide) A promotion that has chance and requires no consideration for entry is typically a sweepstakes. (Section 3.1.2 of this Guide)

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- **Does the promotion include the elements of both chance and skill in the selection of a winner?** Some promotions include elements of both chance and skill. In such circumstances, the promotion may still qualify as a skill-based contest provided that chance is not the dominant factor or a material element in selection of the winner. (Section 3.4.3 of this Guide) There are best practices for selecting winners in a manner that maximizes a promotion being deemed a skill-based contest. (Section 3.4.2 of this Guide)
- **Does the promotion include the element of consideration?** The promotion has the element of consideration if entrants must pay money or other value in order to participate. Consideration is not limited to money. (Section 3.5.2 of this Guide)
- **Does the promotion include the element of a prize?** Most promotions do offer a prize. However, some creative sponsors with promotions combining chance and consideration may choose to eliminate the prize to avoid categorization as an illegal lottery. (Section 3.3.1 of this Guide) While it is usually obvious whether or not a promotion offers a prize, sometimes a prize takes a less obvious form such as virtual currency, a free play, or publicity. (Section 3.3.2 of this Guide)

Is the promotion a tournament? Examples of tournaments are competitions for poker, chess, and monopoly. If participants must pay any type of entry fee, the sponsor risks the tournament being classified as a gambling game or illegal lottery. (Sections 3.1 and 3.7 of this Guide)

Is the promotion a fantasy sports competition? If participants pay an entry or admission fee and chance plays any role in winning, the sponsor must determine whether these factors make the fantasy sports competition a gambling game. (Section 7.2 of this Guide)

Does the promotion sponsor invite people to submit original content (e.g., best photo, essay, etc.)? Promotions accepting original content from entrants raise several potential issues including the following:

- **Is the promotion a contest or a sweepstakes?** Although a promotion for the best original content is typically a contest, such a promo-

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tion can also be structured as a sweepstakes—sometimes accidentally. (Section 7.1.1 of this Guide)

- **How does the sponsor intend to use the submissions?** If the sponsor wants to display, post online, publish, or otherwise use the entries, the sponsor needs permission from the entrants for such use. (Sections 7.1.3 and 8.4.1 of this Guide)
- **Do the submissions include creative content or user generated content?** If the sponsor wants to post online, display, or otherwise share the submissions, the sponsor must ensure that the entrants' submissions violate no intellectual property or other laws. (Sections 7.1.3 and 8.4 of this Guide) For some promotions, it may be an appropriate risk-minimizing technique for the sponsor to provide participants with pre-cleared materials (Section 8.6 of this Guide)
- **Are members of the public invited to vote on the submissions?** Using public voting as a method of determining the winner introduces additional complications. (Sections 3.3.1, 5.1, and 7.1.2 of this Guide)

Is the sponsor of the promotion a broadcast station? There are additional rules that radio stations and television stations offering promotions must follow. (Section 7.6 of this Guide)

Is the promotion offered online or via social media? There are a number of additional considerations for online promotions including the following:

- **Does the promotion comply with the social media networks terms of service?** If not, the sponsor risks the social media network shutting down the promotion. (Section 6.2 of this Guide)
- **Does the sponsor use email in conjunction with the promotion?** The email component must comply with the federal anti-spam law, CAN-SPAM, and with other state anti-spam legislation. (Section 6.4 of this Guide)
- **Are children under thirteen allowed to participate in the promotion?** If children participate, the sponsor must comply with the terms

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of the Children's Online Privacy Protection Act (COPPA) as well as state privacy laws. (Section 6.8 of this Guide)

- **Can the entry method be viewed as the participant's endorsement of the sponsor's company or products?** This is sometimes the result if entry requires "liking" or connecting to the sponsor's social media presence or posting information about the sponsor online. In such circumstances, the Federal Trade Commission's Endorsement and Testimonial Guidelines might require a disclosure. (Section 6.7 of this Guide)

Does the promotion require participants to guess something (e.g., how many beans in the jar, who is behind the curtain, etc.)? This type of promotion is generally classified as a sweepstakes since the outcome depends on chance. (Sections 3.1.2 and 3.4.1) As with all sweepstakes, entrants cannot pay consideration to enter. (Section 3.5 of this Guide)

Is it a scratch-off or peel-and-win promotion? This type of promotion is generally classified as a sweepstakes since the outcome depends on chance. (Sections 3.1.2 and 3.4.1) As with all sweepstakes, entrants cannot pay consideration to enter. (Section 3.5 of this Guide)

Does the sponsor want to offer a raffle? Raffles are neither sweepstakes nor contests. In a traditional raffle, the raffle sponsor sells tickets and selects a winning ticket via a random drawing. Raffles have all the elements of a lottery or gambling game. Gambling, with some limited exceptions, is illegal. As one of the exceptions to gambling prohibitions, most states allow non-profit, charitable, and civic organizations to offer raffles for fundraising purposes. (Section 9.2 and Appendix A.4 of this Guide)

Does the sponsor want to offer gambling? Gambling combines consideration, chance, and reward. (Sections 3.7.1 and 3.7.2 of this Guide) Properly structured contests and sweepstakes are not gambling games. Offering gambling games is off-limits to most individuals and businesses. When legal, gambling tends to be highly regulated. As an exception to anti-gambling laws, in most states, non-profit organizations and other civic and charitable organizations are allowed to offer raffles, bingo games, and other gambling games for fundraising purposes. (Section 9.2 and Appendix A.4 and A.5 of this Guide)

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How Do Participants Enter the Promotion?

Do participants pay money or other consideration to participate?

Payment or other consideration is permitted for most contests but not for sweepstakes. (Section 3.5 and Appendix A.3 of this Guide) For a promotion requiring payment to enter, in order to avoid being an illegal lottery or other gambling game, the promotion must be a contest in which the sponsor selects the winner based on an objective skill demonstrated by the entrants. (Section 3.1.3 and 3.4 of this Guide) The potential exceptions where payment and chance can legally exist in the same promotion include a promotion with no prize award and a promotion that is actually a raffle operated by a non-profit or charitable organization. (Section 9.2 of this Guide)

Do consumers automatically receive a sweepstakes entry when purchasing the sponsor's product?

Contest sponsors may usually charge participants payment or other consideration for entry. Sweepstakes sponsors may not. Hence, if a sweepstakes entry comes automatically with a purchase, the sweepstakes sponsor must provide a free alternative method of entry in order to remove the element of consideration. (Section 3.6 of this Guide) Furthermore, the sweepstakes sponsor may not discriminate between those entrants who receive a chance to play with a purchase and those entrants who receive a chance to play without making a purchase. Both types of sweepstakes entrants must have an equal opportunity to win. This is sometimes referred to as the equal dignity rule. (Section 3.6.3 of this Guide)

Do participants submit original content? See response in this checklist to “Does the promotion sponsor invite people to submit original content (e.g., best photo, essay, etc.)?”

Do participants enter through an online social media network? If yes, the sponsor must comply with the social media networks terms of service. Otherwise, the sponsor risks the social media network shutting down the promotion. (Section 6.2 of this Guide) The sponsor should weigh the advantages and disadvantages of offering the promotion on its own website versus a third-party social media network. (Section 6.1 of this Guide)

Excerpt from Part One, Introduction

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Winner Selection, Notification, and Validation

Is the winner selected based on a random drawing or other selection process based on chance or luck? In order to avoid being an illegal lottery, participants in a chance-based promotion must not pay money or other consideration to participate. The potential exceptions are if the promotion awards no prize or the promotion is actually a raffle operated by a non-profit or charitable organization (Section 9.2 of this Guide).

Is the potential winner unavailable or uncooperative? Ideally, the promotion rules allow the sponsor to justify the selection of an alternate winner if the initially selected winner is unavailable or uncooperative. (Section 5.2.3 of this Guide)

Are there more sweepstakes winners than the sponsor anticipated? This can happen as the result of a printing error or other mistake. Hopefully, the promotion rules include a Kraft clause that provides the sweepstakes sponsor with an easy-to-implement remedy for such an error. (Section 4.4.7 of this Guide)

What Is the Prize?

Does the sponsor hope to eliminate the prize to avoid an illegal lottery? A lottery combines chance, prize, and consideration, so legal promotions can have only two of these three elements. While most sponsors eliminate either chance or consideration, a few may attempt to eliminate prize. A prize can take various forms. (Section 3.3.2 of this Guide)

Is the prize an expensive item such as a car or a large sum of cash? Sponsors should consider the tax implications on the winner prior to selecting expensive items as prizes. (Sections 5.3.3 and 5.4 of this Guide)

Is the prize a brand-name product? The sponsor can mention the brand name to describe the prize award. The sponsor may want to provide a disclaimer in its advertising and official rules so consumers do not mistakenly believe that the product manufacturer endorses or is affiliated with the promotion. (Section 8.2.2 of this Guide)

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Is the prize travel? The sponsor should consider restrictions for travel awarded as a prize. (Section 5.3.4 of this Guide)

If the prize is cash, does the cash include money collected from entrants? The value of a contest prize can not be completely dependent on the amount of money collected from the entrants. In virtually all states, the collection of such a pot for payment to the winning entrant violates state gambling laws. (Section 5.3.1 of this Guide) The common exception is a 50/50 charity raffle which is actually neither a contest nor a sweepstakes but an exception to the anti-gambling laws.

Is the prize a home or other real estate? Offering real estate in a sweepstakes requiring no consideration for participation presents similar tax challenges as offering other expensive sweepstakes prizes. (Section 5.3.3 and 5.4) However, many sponsors with real property to offer want to use the promotion to raise funds—often to pay off debt the sponsor owes on the property. Achieving that objective means charging a monetary entry fee. Hence, the sponsor can achieve the objective only as a skill-based contest or as a non-profit raffle. There are several obstacles to both approaches. (Section 7.3 of this Guide)

What Are the Procedures for Promotion Administration?

Must the sponsor register the promotion? Some states have registration and/or bonding requirements for promotions. The specific requirements often depend upon whether the promotion is a contest or a sweepstakes. (Section 4.1, Appendix A.1, and individual state summaries of this Guide)

Must the sponsor have and publish official rules for the promotion? In some circumstances, yes, a sponsor must have rules and make them publicly available. (Section 4.2 of this Guide) Those circumstances include a promotion in which the sponsor uses direct mail (Section 7.4 of this Guide) or the sponsor is a broadcast station (Section 7.6.1 of this Guide). Otherwise, having published official rules may not be a requirement. Nevertheless, having written promotion rules is always a highly recommended best practice.

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Does the sponsor plan to use direct mail? When using direct mail, the sponsor must comply with the federal Deceptive Mail Prevention and Enforcement Act as well as parallel state prize promotion laws. These laws mandate certain disclosures and prohibit certain misleading business practices. (Section 7.4 of this Guide)

Does the sponsor plan to use telemarketing, text messaging, or faxes in conjunction with the promotion? There are restrictions on unsolicited calls to mobile phones, text messages, and faxes. The sponsor must comply with the Telephone Communications Protection Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, their corresponding regulations, and parallel state laws. (Section 7.5 of this Guide)

Has the sponsor selected a potential winner? The sponsor may want the potential winner to sign certain releases and affidavits prior to confirming the prize award. (Section 5.2.2 of this Guide) Contest and sweepstakes prizes are taxable so there may be tax reporting obligations the sponsor needs to fulfill. (Section 5.4 of this Guide)

Is the promotion a collaboration between for-profit and non-profit organizations or is it advertised as benefitting a charitable cause or organization? State charity collaboration laws might apply. (Section 9.1 of this Guide)

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CHAPTER 3

Deciding on a Contest or a Sweepstakes

3.1. Lottery Versus Sweepstakes Versus Contest

While some people may use the terms interchangeably, there are distinctions among a lottery, a sweepstakes, and a contest.

3.1.1. A Lottery Combines Prize, Consideration, and Chance

A lottery is one form of gambling and, like all forms of gambling, is typically illegal when offered by a person or organization other than the federal or state government. Consideration, chance, and prize are the three elements that combine to form a lottery. I discuss these three elements in great detail throughout this Guide. Here are initial definitions for each of these elements within the context of promotions law:

- Consideration is money or an item of value paid by a person for the opportunity to compete for a prize. In the context of gambling, consideration is sometimes alternatively referred to as a payment, stake, bet, or wager.
- Chance is the process of awarding the prize by a random drawing or other form of random selection. In the context of gambling, the element of chance is sometimes alternatively referred to as luck.
- A prize is something of value awarded to the winning entrant in a lottery, gambling game, contest, or sweepstakes. In the context of gambling, a prize is sometimes alternatively referred to as a reward.

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If a sponsor sells (*i.e.*, if the sponsor accepts payment or other form of consideration) opportunities to win a prize where winning the prize is based on chance, the sponsor is offering a promotion with a prize, consideration, and chance, and the sponsor's promotion is actually a lottery. Contests and sweepstakes also have the elements of prize, consideration, and chance. What prevents contests and sweepstakes from being an illegal lottery or illegal gambling game is that a legal contest or a legal sweepstakes has only one or two of these elements—rather than all three.

3.1.2. A Promotion that Awards a Prize Based on Chance Is a Sweepstakes

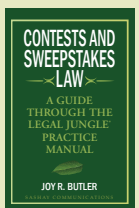
A sweepstakes is a promotion in which the sponsor awards a prize based on chance or other random selection process. Since a sweepstakes has the elements of prize and chance, to avoid classification of the sweepstakes as an illegal lottery or gambling game, the sponsor must eliminate the element of consideration. As a result, entrants in a legally structured sweepstakes do not pay consideration in order to participate.

3.1.3. A Promotion that Awards a Prize Based on Skill Is a Contest

A contest is a promotion in which the sponsor awards a prize based on a skill demonstrated by the entrants. In a contest, chance does not determine the winner of the prize. While it is possible for a skill-based contest to include some components of chance, chance cannot be a material component or the dominant component determining the contest's outcome. Section 3.4.3 of this Guide includes more discussion on promotions combining both chance and skill.

Since a contest has the element of a prize but not the element of chance, adding consideration places only two of the three lottery elements into the promotion. Hence, the contest sponsor usually has the choice of whether or not to charge entrants a fee or other consideration for participation in the contest. Some contest sponsors charge consideration. Some do not. A few states prohibit or limit the ability of contest sponsors to charge consideration.

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3.2. Why Is the Contest/Sweepstakes Distinction Important?

The company or individual offering a simple promotion may question the necessity of knowing whether the promotion is a contest or a sweepstakes. There are a few reasons why the cautious sponsor wants to understand clearly the type of promotion being offered.

3.2.1. Registration, Bonding, and Disclosure Requirements

The federal government and some states have registration, bonding, and/or disclosure requirements for promotions. The specific requirements often depend upon whether the promotion is a contest or a sweepstakes. I discuss many of those requirements in the individual state summaries located in Part Three of this Guide. I also discuss federal and state disclosure requirements mandated for promotions using direct mail or telemarketing in Sections 7.4 and 7.5 of this Guide.

3.2.2. Avoidance of Illegal Lottery

A promoter must identify its promotion as a contest or sweepstakes in order to avoid offering an illegal lottery. Many laws relevant to contests and sweepstakes focus on preventing the promotion from being an illegal lottery. A lottery combines the elements of prize, consideration, and chance. Most states accept the viewpoint that no lottery exists if the promotion lacks one of the three elements of prize, consideration, and chance.

Hence, to avoid classification as an illegal lottery, a promotion operated by an organization or individual may include only two of the three elements of prize, consideration, and chance. The exception is a non-profit or other charitable organization operating a raffle or gambling game under an exception to a state's anti-gambling laws. I discuss these exceptions further in Section 9.2 of this Guide and in the state summaries in Part Three of this Guide.

When offering a sweepstakes, the sponsor eliminates consideration. When offering a contest, the sponsor eliminates chance. Occasionally, there are hybrid promotions in which the sponsor eliminates the prize. To determine which element must be eliminated, it is crucial to know whether the promotion is a contest or a sweepstakes.

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3.2.3. Avoidance of Illegal Gambling

A sponsor must identify its promotion as a contest or sweepstakes in order to avoid offering gambling. Each state has its own statutory definition of gambling. One definition describes gambling as the combination of consideration, chance, and reward. These gambling elements are sometimes alternatively expressed as payment, luck, and prize. They are parallel to the consideration, chance, and prize elements comprising a lottery. As briefly discussed in Section 3.7.2 of this Guide, some states require all the elements for a finding of gambling while other states do not require chance or luck for a finding of gambling.

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CHAPTER 4

Administering the Promotion and Preparing Official Rules

4.1. State Registration and Bonding Requirements

Some states have registration and bonding requirements. Appendix A.1 of this Guide includes a summary list of such requirements. Part Three of this Guide includes a detailed state-by-state discussion of such requirements.

4.2. Must a Sponsor Publish Promotion Rules?

There is not one law mandating that every promotion have a set of written official rules and that the sponsor make those rules available to the public. However, promotions that fall into certain categories must have written rules made available to the public:

Federal Law Applicable to Promotions Using Direct Mail. The Deceptive Mail Prevention and Enforcement Act (DMPEA), 39 U.S.C. §3001 *et seq.*, (2014), is a federal act that governs certain promotions distributing written entry materials through the United States Postal Service. A promotion using postal mail is subject to the DMPEA if the promotion is a sweepstakes or a skill-based contest requiring participants to pay, or implying that participants must pay, to enter the contest. The DMPEA does not govern those contests that clearly eliminate the consideration component even if the contest sponsor uses postal mail to distribute entry forms.¹⁰ The DMPEA does not apply to promotions conducted only online since such promotions do not use postal mail.

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When applicable, the DMPEA requires sponsors to include written rules as well as other detailed disclosures in their promotion-related postal mailings. I discuss DMPEA requirements in greater detail in Section 7.4.1 of this Guide.

State Law Applicable to Promotions Using Direct Mail. Many states have laws that are parallel to the federal Deceptive Mail Prevention and Enforcement Act (DMPEA). These are state prize promotion laws. The DMPEA does not pre-empt any state laws. For that reason, a state's prize promotion laws may be more stringent or less stringent than the requirements of the DMPEA.

The promotions governed by state prize promotion laws may not match up exactly with the promotions governed by the DMPEA. Some states have very narrow prize promotion laws that are applicable only to prize giveaways requiring attendance at a sales presentation and inapplicable to more traditional sweepstakes and contests. Other states have broad prize promotion laws that apply to all sweepstakes and contests using mail or telephone solicitation. It is often unclear whether the state prize promotion laws are applicable to online-only promotions.

There is a more detailed discussion of state prize promotion law requirements in Section 7.4.2 of this Guide. Also, Part Three of this Guide contains a state-by-state discussion of each state's prize promotion laws, as applicable.

Promotions Offered by FCC Licensees. The Federal Communications Commission (FCC) regulates promotions operated by radio and television broadcast stations. The federal Communications Act and FCC regulations require that radio and television stations disclose the material terms of any promotion by announcing those terms over the air. There is no explicit requirement that the broadcast station provide the public with a written version of the promotion rules. I discuss requirements for promotions sponsored by FCC-licensees in greater detail in Section 7.6 of this Guide.

Raffles. The laws of some states require that sponsors of raffles disclose the raffle terms in writing. As discussed in more detail in Section 9.2 of this Guide, raffles are neither sweepstakes nor contests. Raffles have all

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the elements to qualify as lotteries or gambling under the laws of most states. However, many states permit non-profit, charitable, and civic organizations to offer raffles for fundraising purposes.

There is a more detailed discussion of raffles in Section 9.2 of this Guide. I also discuss raffles on a state-by-state basis, as applicable, in the state summaries located in Part Three of this Guide.

Other Industry-Specific Requirements. There may also be laws applicable to promotions operated within certain industries that require written promotion rules. Such industries include the alcohol, tobacco, dairy products, gasoline, financial institutions, banking, and insurance industries.

For promotions that do not fall within one of the categories targeted by these laws, there is no requirement to have rules or put them in writing. Many of us have seen online promotions that have no rules or very minimal rules. However, even when there is no legal requirement, it is a best practice and strongly recommended that all sponsors have written rules that they share with entrants.

While protecting consumers is often the main goal of the laws requiring written promotion rules, having and distributing well-written rules also serves as one of the sponsor's best safeguards against legal challenges from dissatisfied promotion participants and from government regulators. Preparing rules gives the sponsor an opportunity to think through the promotion, determine where problem areas exist, and develop procedures and strong language to protect itself from those potential problems.

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4.4.3. State Who Is Eligible to Enter

There are numerous ways in which a sponsor can legally and might want to restrict eligibility for entry into a promotion.

Restricting Entry to Adults. The sponsor may restrict participation to legal adults. A best practice is to indicate the age requirement as the age of majority within the person's jurisdiction. In that way, the sponsor does not need to be concerned with varying ages of majority across the nation. Here is sample language:

Contest is open only to individuals who have reached the age of majority in their jurisdiction of residence at the time of entry.

If minors are allowed to participate, the sponsor needs the authorization of the minor's parents or legal guardians in order for the promotion rules and any other documents to serve as binding contracts. Also, as discussed further in Section 6.8 of this Guide, allowing children to participate in an online promotion requires compliance with the Children's Online Privacy Protection Act (COPPA), applicable to children under thirteen, as well as compliance with state privacy laws, some of which apply to all minors under eighteen.

Disqualifying Persons Affiliated with Sponsor. I am not aware of any specific laws that require a sponsor to disqualify affiliated persons from participation in a contest or sweepstakes. In contrast, there are often such

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legal restrictions prohibiting participation by affiliated persons in raffles, bingo games, and other forms of state-sanctioned charitable gambling.

Nevertheless, to eliminate any appearance of bias or fraud in a contest or sweepstakes, it is a best practice for sponsors to disqualify from participation anyone closely affiliated with the sponsor. Having made such disqualification a fact in the sponsor's favor in the event a court or government agency reviews the promotion for claims of fraud. Affiliated persons include employees of the sponsor and of any other companies involved in administering the promotion such as advertising agencies. The ineligibility normally extends to the immediate family members of those persons and anyone living in the same residence. Here is sample language disqualifying affiliated persons:

Example One. Employees of Sponsor, its subsidiaries and affiliates, and their immediate family members (spouse, parent, child, sibling and their respective spouses, regardless of where they live) or persons living in the same households of such employees, whether or not related are not eligible to enter or win the promotion.

Example Two. Employees, officers and directors of Sponsor, any prize supplier, and their respective parent companies, subsidiaries and affiliates and their advertising, promotion, and fulfillment agencies are not eligible to enter or win. Immediate family members and household members of such individuals are also not eligible to enter or win. Immediate family members means parents, step-parents, children, step-children, siblings, step-siblings, or spouses. Household members means those people who share the same residence at least three months per year.

Restrict Eligibility by Geographic Region. To avoid international compliance issues, United States sponsors frequently restrict participation to legal residents of the United States. The restriction might or might not extend to territories of the United States. If specific states pose problems for the structure of a particular promotion, the sponsor can make residents of that state ineligible to participate.

There might also be sponsors who want participants from only one or a few states. As in all restrictions and rules, the sponsor must be clear

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so there is no ambiguity as to geographic-location requirements. Here is some sample language that clearly explains geographic eligibility:

The Tasty Pastry New Haven Twitter Sweepstakes is open only to permanent legal U.S. residents residing in the state of Connecticut . . . as of the date of their entry.

Here is sample language that does not clearly explain geographic eligibility because the language is too vague:

The competition is open to people who live or work in Madison, or who grew up in or around the city.

Void Where Prohibited by Law. “Void where prohibited by law” is a standard statement found in promotion rules. While its inclusion does not harm the sponsor, the statement by itself might not be sufficient to insulate the sponsor from liability from a particular state’s laws without further action. The sponsor should take steps to avoid encouraging people in restricted states from participating.

Restrict Entrants to Current Customers. While restricting entry to current customers or current members is generally permissible, sweepstakes sponsors must be careful that such restrictions do not introduce consideration. Section 3.5.2 of this Guide includes a discussion on when restricting participation to members, attendees, and customers might qualify as consideration.

Specialized Restrictions and Disqualifications. If there are other eligibility criteria that might be considered subjective, the sponsor should clearly explain what those criteria are and how they will be applied. For example, a humor contest operated by a newspaper was open only to amateur humorists and not to professional humorists. Everyone might not immediately agree on the dividing line between amateur and professional.

The newspaper defined professional humor writers as anyone who earns more than fifty percent of his or her annual income from writing humor, as determined in the newspaper’s sole discretion. That definition does make the amateur-professional dividing line more objective; however, it is not a perfect definition. For example, it is unclear if the rule

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refers to income this year, last year, or a year in the foreseeable future. Also, there are individuals who might earn a substantial annual sum—say \$50,000—from writing humor but the \$50,000 is less than half of their annual income. A better definition for professional humorist might have been “a professional humor writer is someone who in each of the last two years earned more than \$25,000 in income from writing humor”.

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How Each State Summary Is Organized

This Part Three offers a separate summary for each state and the District of Columbia outlining the specific laws most relevant to promotions in that state. Familiarity with the concepts presented in Part Two, Overview of this Guide is helpful in understanding the material within the state summaries. The discussion within each state summary is organized with the following headings:

State Attorney General Office. This portion of the state summary lists the address, phone number and website of the state's Office of the Attorney General. The attorney general is usually the administrator within the state who initiates legal actions against sponsors whose contests and sweepstakes violate the state's laws. Attorney generals often issue opinion letters on how the state's laws apply to specific promotions.

Selected State Laws, Regulations, and Constitutional Provisions. This portion of the state summary provides the reference number and a descriptive name for some of the state's legal provisions most relevant to contests and sweepstakes. A state's promotion-related laws are often (but not always) codified with the state's criminal laws and/or consumer protection laws.

Not all legal provisions have helpful descriptive names. Hence, I often add wording to the descriptive name of the legal provision to give readers a better idea of what the provision covers. Portions of the descriptive name provided by me—rather than by the state—appear in parenthesis.

Summary of State Law. The Summary of State Law discussion is further divided into four primary headings:

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Prohibition of Lotteries and Gambling: This portion of the state summary indicates the state's position on lotteries and gambling. It highlights the state's legal provisions that prohibit lotteries and gambling and how the state defines lottery. Most states define lottery as a promotion that combines a prize, chance, and consideration.

Contests: This portion of the state summary provides the state's position on contest promotions. Typically, states permit contests as long as the contest does not conflict with anti-gambling laws. If the contest includes an element of consideration, most states require that the sponsor award the contest prize based on skill and not on chance. This portion of the state summary indicates, when known, the test used by the state when evaluating whether chance or skill prevails in a promotion that combines elements of both.

The potential tests used for a chance-skill determination include the dominant factor doctrine, the material element test, the any chance test, and the pure chance test. Section 3.4.3 of this Guide describes each of these four chance-skill determination tests. Appendix A.2 of this Guide lists in table form the chance-skill determination test used by each of the states.

The *Contests* portion of the state summary also indicates whether the state places any restrictions or limitations on contest sponsors charging consideration. Appendix A.3 of this Guide compiles a list of the states that prohibit or restrict consideration in skill-based contests.

Sweepstakes: This portion of the state summary indicates the state's position on sweepstakes promotions. Typically, states permit sweepstakes as long as participants do not pay consideration and the sweepstakes does not otherwise violate anti-gambling laws. The *Sweepstakes* portion of the state summary provides a discussion of any insight the state offers on what it deems to be consideration in a contest or sweepstakes promotion. Sections of the Part Two, Overview that are helpful for understanding the *Sweepstakes* portion of the state summary include the discussions of consideration and alternative methods of entry in Sections 3.5 and 3.6, respectively, of this Guide.

Prize Promotion Laws: If applicable, the state summary includes a discussion of the state's prize promotion laws. All states do not have prize

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promotion laws. This *Prize Promotions Laws* portion of the state summary also includes a discussion of any state telemarketing laws that have significant prize promotion protection provisions.

Sections of the Part Two, Overview that are helpful for understanding this portion of the state summary include the general discussion of compliance with state prize promotion laws and the general discussion of compliance with state telemarketing laws in Sections 7.4.2 and 7.5.2, respectively, of this Guide.

Gambling Exceptions for Non-Profits and Other Qualified Organizations/Raffles, Lotteries, and Bingo. This portion of the state summary explains the state's exceptions to anti-gambling laws that allow non-profit organizations and other civic and charitable groups to offer raffles and bingo games. Many state laws refer to an organization eligible to offer non-profit raffles and bingo games as a qualified organization.

Section 9.2 of this Guide includes a general discussion of the typical requirements found in state raffle and bingo exceptions. Appendix A.4 of this Guide summarizes in table form the raffle laws of each of the states. Appendix A.5 of this Guide summarizes in table form the bingo laws of each of the states.

Resources. The state summary indicates where the reader can obtain copies of opinion letters issued by the state's attorney general. Many states provide a free searchable online database of attorney general opinions, typically on the website of the Office of the Attorney General. The website of the state's Office of the Attorney General is indicated at the beginning of the state summary.

Endnotes. The majority of—but now all—case law, statutory, and regulatory citations is included as endnotes at the end of each individual state summary. See Section 1.4 of this Guide for an explanation of the citation system used in this book.

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Arkansas

Part Three contains a separate state summary for each state and the District of Columbia outlining the specific laws most relevant to contests and sweepstakes in that jurisdiction.

State Attorney General Office

Office of the Attorney General
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-2007
Website: <http://www.arkansasag.gov>

Selected State Laws, Regulations, and Constitutional Provisions

Arkansas' anti-gambling laws (Title 5, Subtitle 6, Chapter 66, Sections 5-66-101 *et seq.* of the Arkansas Code), which are in its criminal offenses code, contain provisions related to promotions. In its business and commercial law code, Arkansas includes its prize promotion laws (Title 4, Subtitle 7, Chapter 102, Sections 4-102-101 *et seq.*). Specific Arkansas legal provisions frequently quoted in court cases and interpretive opinions related to promotions include the following:

Reference No.	Descriptive Name
Ark. Const. art. 19, § 14	Lotteries prohibited
Ark. Code § 4-102-105	Prohibited practices (for promotions)
Ark. Code § 4-102-106	Disclosures required (for promotions)
Ark. Code § 4-70-102	Advertisement by giving away prizes lawful
Ark. Code § 5-66-113	Games of hazard or skill—Betting
Ark. Code § 5-66-118	Lottery, etc.—Tickets

Reference number and a descriptive name for the state's legal provisions most relevant to contests and sweepstakes

Portions of the descriptive name provided by the author—rather than by the statute—appear in parenthesis.

Prohibition of Lotteries and Gambling indicates the state's position on lotteries and gambling and how the state defines lottery.

Summary of State Law

Prohibition of Lotteries and Gambling: Arkansas' Constitution as well as its statutory laws prohibit lotteries.¹ A promotion that combines a prize,

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chance, and consideration is a lottery in Arkansas.² Arkansas also has a general prohibition against gambling.³ Exceptions to the lottery and gambling prohibitions include state-operated lotteries and certain charitable lotteries.

Contests provides the state's position on contest promotions. It includes the chance-skill determination test used by the state when evaluating whether chance or skill prevails in a promotion that combines elements of both. It also includes registration and other compliance requirements.

→ *Contests:* Arkansas permits contests as long as the contest does not conflict with anti-gambling laws. If the contest includes an element of consideration, the sponsor must award the contest prize based on skill and not on chance. Contests offered in conjunction with sales campaigns must comply with Arkansas prize promotions laws, discussed below.

Court opinions suggest that Arkansas applies the dominant factor doctrine⁴ when evaluating whether or not chance determines the outcome of a promotion. In *Longstreth v. Cook*, 220 S.W.2d 433, 437 (Ark. 1949), the Arkansas Supreme Court determined that pari-mutuel betting of horse-racing did not constitute a lottery.⁵ In its conclusion, the *Longstreth* court reasoned that “while the element of chance no doubt enters into these races, *it does not control them*, and that there is therefore no lottery.”⁶

Although subsequent court opinions and attorney general opinions wholly follow the *Longstreth* holding,⁷ some of the language used in those subsequent opinions seems to overstate *Longstreth's* characterization of the required role of chance in a lottery and could be interpreted as supporting Arkansas' use of the pure chance test.⁸ Nevertheless, it seems likely that Arkansas law would favor the dominant factor doctrine over the pure chance test.

The state summaries discuss atypical laws that might be of interest to readers. For example, Arkansas is one of the few states with laws specifically governing beauty pageant contests.

→ **ARKANSAS LAW GOVERNING BEAUTY PAGEANTS.** Arkansas has laws that deal with beauty pageants (Title 17, Chapter 21, Sections 17-21-101 to 17-21-205 of the Arkansas Code). If a beauty pageant operator charges an entry fee or an audience admission fee, or sells tickets or chances in connection with the pageant, the operator must register with the Director of the Department of Finance and Administration and obtain a bond in the amount of \$10,000.

The beauty pageant laws do not apply to an operator that has existed for at least twenty-five years and whose continuing primary function involves the annual operation of a statewide pageant in which contestants compete for scholarships and for the opportunity to represent Arkansas in an annual nationwide pageant with which the operator is

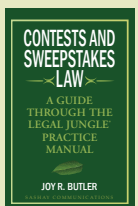
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affiliated.⁹ Civic, non-profit, and religious organizations as well as local government entities and schools are exempt from the bond requirement.

Sweepstakes: Arkansas permits sweepstakes as long as participants pay no consideration and the sweepstakes does not violate the anti-gambling laws. Sweepstakes offered in conjunction with sales campaigns must comply with the Arkansas prize promotion laws, discussed below.

The Arkansas Attorney General has commented on indirect consideration in a sweepstakes. Indirect consideration occurs when a participant receives a sweepstakes ticket with the purchase of a non-gaming product and the participant pays an inflated price for the non-gaming product. Arkansas views the premium paid for the non-gaming product as consideration paid for the sweepstakes ticket. Other indirect consideration methods identified by Arkansas include payment of an annual fee.¹⁰ For example, there is indirect consideration for a bingo game held at a club when the only people allowed to play are members of the club and their guests (where club membership requires payment of a membership fee).¹¹

Arkansas law explicitly legalizes in-package sweepstakes as long as there is a free alternative method of entry.¹² The Arkansas Attorney General has emphasized that this in-package sweepstakes allowance is for sweepstakes combined with pre-existing products. According to the Arkansas Attorney General, the in-package sweepstakes provision was enacted with the intent of allowing promotional advertising for products that are typically sold independent of a promotional scheme and that cost the same before, during, and after the promotion.¹³

Prize Promotion Laws: The Arkansas Prize Promotion Act (Title 4, Subtitle 7, Sections 4-102-101 *et seq.* of the Arkansas Code) applies when a company combines a prize offer with the sale of products or services. It does not apply to a promotion in which there is no opportunity for money to pass from the participant to the sponsor.¹⁴ The Arkansas Prize Promotion Act includes disclosure requirements, prohibited practices designed to thwart misrepresentation¹⁵, and a requirement to award any prize promised¹⁶.

Sweepstakes provides the state's position on sweepstakes. In addition to compliance requirements such as registration, it describes insight the state offers on topics such as consideration, in-package sweepstakes, and internet cafés.

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If applicable, the state summary includes a discussion of the state's prize promotion laws.

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OFFER OF A PRIZE REQUIRES A WRITTEN DISCLOSURE. If the Arkansas Prize Promotion Act applies, a company must provide people to whom it offers a prize with certain disclosures in a written prize notice.¹⁷ The written prize notice requirement applies regardless of whether the company makes the prize offer in writing, verbally, or by telephone.¹⁸ There are specific requirements for the wording, appearance and placement of the disclosures in the prize notice.¹⁹

If applicable, the state summary relates how the state's prize promotion laws affect traditional contests and sweepstakes.

→ APPLICABILITY OF THE ARKANSAS PRIZE PROMOTION ACT TO CONTESTS CHARGING CONSIDERATION. A literal reading of the Arkansas Prize Promotion Act indicates the act applies whenever a company charges Arkansas residents money as a condition of receiving or competing for, or learning information about a prize.²⁰ Nevertheless, in *Burford Distributing v. Starr*, 20 S.W.3d 363 (Ark. 2000), the Arkansas Supreme Court concluded that the Arkansas Prize Promotion Act was not applicable in a skill-based contest where the participant paid an entry fee but was not required to purchase any of the sponsor's products in order to compete in the contest. In *Burford Distributing*, the Burford Distributing Company sponsored a golf tournament that charged a \$40 entry fee and promised the prize of a car to the first person to score a hole-in-one. Danny Starr sued Burford Distributing for breach of contract and violation of the Arkansas Prize Promotion Act after he shot a hole in one and was refused the car.²¹

Among the facts convincing the court that the Arkansas Prize Promotion Act was inapplicable to the golf tournament contest were Starr's admissions that he never received any communication from Burford Distributing encouraging him to participate in the tournament, that he learned about the tournament through an acquaintance, and that he had no knowledge of the car giveaway at the time he entered the tournament. It is noteworthy that the dissenting opinion in *Burford Distributing* argues that the Arkansas Prize Promotion Act should apply to the Burford Distributing golf tournament precisely because payment of an entry fee was a requirement to competing in the tournament.

If applicable, the state summary describes any state telemarketing laws that have significant prize promotion protection provisions.

→ PRIZE PROMOTION PROVISIONS OF TELEMARKETING LAWS. Arkansas has telemarketing laws (Title 4, Subtitle 7, Chapter 99, Sections 4-99-101 to 4-99-408 of the Arkansas Code) which include disclosure requirements for sweepstakes and giveaways offered as part of a telephone solici-

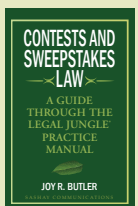
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tion.²² The Arkansas Mail and Telephone Consumer Product Promotion Fair Practices Act (Title 4, Subtitle 7, Chapter 95, Sections 4-95-101 to 4-95-108 of the Arkansas Code) also contains disclosure requirements for prizes and gifts offered by telephone or mail in conjunction with a consumer product sales campaign.²³

Gambling Exceptions for Non-Profits and Other Qualified Organizations

Bingo and Raffles: A constitutional amendment allows certain non-profit, tax-exempt organizations to conduct bingo games and raffles as long as the organization uses all net receipts over and above the actual cost of conducting the bingo game or raffle for charitable, religious, or philanthropic purposes.²⁴

Qualified organizations able to offer bingo games and raffles include religious, educational, veterans, fraternal, service, civic, medical, volunteer rescue services, volunteer firefighters, and volunteer police organizations.²⁵ The operation of raffles and bingo games must meet several statutory and regulatory requirements.²⁶ Organizations operating bingo and raffle games must have a license issued by the Arkansas Department of Finance and Administration.²⁷

The Charitable Bingo and Raffles Game Enabling Act is codified in Title 23, Chapter 114 of the Arkansas Code. The raffle and bingo regulations are in Rule 2007-4 of the Arkansas Administrative Code. Additional information, registration and report forms are available from the Arkansas Department of Finance and Administration, Revenue Division, Miscellaneous Tax, P. O. Box 896 - Room 2340, Joel Y. Ledbetter Building, Little Rock, Arkansas 72203, Phone: 501-682-7187, Fax: 501-683-3699, <http://www.state.ar.us/dfa>

A discussion of the state's exceptions to anti-gambling laws that allow non-profit organizations and other civic and charitable groups to offer raffles and bingo games.

A listing of which organizations may offer charitable raffles and bingo games.

References to licensing, operation, and report filing requirements for organizations offering charitable raffles and bingo games.

Availability of attorney general opinion letters and other resources.

Resources

Arkansas offers a searchable database for its attorney general opinions online at <http://www.arkansasag.gov/opinions/>

Excerpt from Part Three, Summaries of State Laws

While some citations for cases, statutes, and regulations appear in the main body of the state summary, the majority of citations appear as endnotes at the end of each individual state summary.

Endnotes

1. Ark. Const. art. 19, § 14; Ark. Code § 5-66-118 (2013).
2. Ark. Att’y Gen. Op. 2006-052 (June 28, 2006) citing *Scott v. Dunaway*, 311 S.W.2d 305 (1958).
3. See generally, Ark. Code §§ 5-66-101, 5-66-113 *et seq.* (2013).
4. See generally, Section 3.4.3 of this Guide for a discussion of tests used when evaluating whether chance or skill prevails in a promotion combining elements of both.
5. However, the court did conclude that such pari-mutuel betting constitutes a form of gambling other than a lottery. At the time of the *Longstreth* case (1949), the legislature’s authorization of a form of gambling (other than a lottery) would have been constitutional. In contrast, the legislature’s authorization of a lottery in 1949 would have been unconstitutional. *Longstreth v. Cook*, 220 S.W.2d 433, 435 (Ark. 1949).
6. *Longstreth*, *supra* note 5, at 438 (Ark. 1949) (emphasis added).
7. See *e.g.*, *Scott v. Dunaway*, 311 S.W.2d 305 (Ark. 1958); Ark. Att’y Gen. Op. 93-437 (Jan. 5, 1994).
8. For example, in *Scott v. Dunaway*, *supra* note 7, at 306, the Arkansas Supreme Court references the *Longstreth* decision as holding “it is essential to a lottery that the winners be determined by chance alone”. In a 1994 opinion, the Arkansas Attorney General citing the *Scott* and *Longstreth* decisions, says “in order to constitute a lottery, it is essential that the winners be determined by ‘chance alone,’ and that the outcome be ‘wholly dependent upon the element of chance,’ and the type of betting be ‘completely controlled by chance.’ Such wording seems to be an overstatement of the *Longstreth* decision, which characterized the role of chance in a lottery as the controlling element or the determining element, *Longstreth*, *supra* note 5, at 437 and 438, and not as the sole element.
9. Ark. Code § 17-21-101 (2013).
10. Ark. Att’y Gen. Op. No. 2004-357 (March 9, 2005).
11. Ark. Att’y Gen. Op. No. 99-318 (Dec. 9, 1999).
12. Ark. Code § 4-70-102 (2013).
13. Ark. Att’y Gen. Op. No. 2006-052 (June 28, 2006).
14. Ark. Code § 4-102-104(b)(1) (2013). There are additional exemptions in Ark. Code §4-102-104.
15. See Ark. Code § 4-102-105 (2013).
16. Ark. Code § 4-102-107 (2013).
17. Ark. Code § 4-102-106 (2013).

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The remainder of the Arkansas State Summary has been omitted from complimentary excerpt.



Appendix A Tables of State Information

A.1. States with Registration and Bonding Requirements for Promotions

This table summarizes the registration and bonding requirements imposed on promotions by some states. Part Three of this Guide includes a detailed state-by-state discussion of such requirements for the relevant states.

[Sample of Table A.1 not included in complimentary excerpt.]

A.2. Summary of Tests Used by States for Chance-Skill Determinations

In some promotions, winning might be based on a combination of skill and chance. The tests used by states to determine whether such promotions are chance-based or skill-based include the dominant factor doctrine, the material element test, the any chance test, and the pure chance test. Most states use the dominant factor doctrine or the material element test.

Section 3.4.3 of this Guide describes each of these four tests. The approach used by each state is discussed further in the state summaries in Part Three of this Guide.

STATE	TEST	LEGAL AUTHORITY
Alabama	Material element test	Ala. Code §13A-12-20(3) (2013).
Alaska	Material element test	Alaska Stat. §11.66.280(1) (2014); Alaska Att’y Gen. Op. No. 663-01-0183 (May 22, 2001)
Arizona	Uncertain	
Arkansas	Dominant factor doctrine; some support for the pure	<i>Longstreth v. Cook</i> , 220 S.W.2d 433, 438 (Ark. 1949).

Sample from Appendices, Tables of State Information

Appendix A.3. States that Prohibit or Restrict Consideration in Skill-Based Contests ■ 471

A.3. States that Prohibit or Restrict Consideration in Skill-Based Contests

This chart summarizes the laws of those states that prohibit or limit the ability of contest sponsors to charge consideration. The state summary of each state includes a more detailed discussion of each state's treatment of contests.

[Sample of Table A.3 not included in complimentary excerpt.]

A.4. Summary of the States' Raffle Laws

In a traditional raffle, the raffle sponsor sells tickets and selects a winning ticket via a random drawing. Hence, raffles have all the elements of a lottery or gambling game. Most states allow non-profit, charitable, and/or civic organizations to offer raffles for fundraising purposes. (Section 9.2 of this Guide)

Section 9.2 of this Guide provides a general discussion of raffles. The state summary of each state includes a more detailed discussion of each state's treatment of raffles.

[Partial sample of Table A.4 summarizing states' raffle laws.]

STATE	ALLOWED	LEGAL AUTHORITY
Delaware	Yes	Del. Const. art. II, § 17B; Del. Code, tit. 28 § 1501 <i>et seq.</i> (2014).
District of Columbia	Yes	D.C. Code § 22-1717 (2013).
Florida	Yes	Fla. Stat. § 849.0935(2) (2013).

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A.5. Summary of the States' Bingo Laws

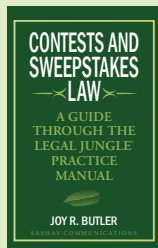
When people pay to play bingo, the bingo game qualifies as a lottery and/or as gambling. Many states offer an exception in their anti-gambling laws to allow non-profit organizations and other civic and charitable groups to offer bingo games for fundraising purposes.

Section 9.2 of this Guide provides a general discussion of bingo games. The state summary of each state includes a more detailed discussion of each state's treatment of bingo.

[Partial sample of Table A.5 summarizing states' bingo laws.]

STATE	ALLOWED	LEGAL AUTHORITY
Idaho	Yes	Idaho Const. art. III, § 20(1)c; Idaho Stat. § 67-7707 (2014).
Illinois	Yes	Ill. Comp. Stat. Ch. 230, § 25/1 <i>et seq.</i> (2014).

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