

INITIAL STATEMENT OF REASONS

I. THE EXISTING REGULATIONS AND PURPOSE OF PROPOSED AMENDMENTS.

Penal Code section 320.5 (“section 320.5”) permits an eligible nonprofit organization, as defined in subdivision (c), to legally conduct raffles for the purpose of directly supporting beneficial or charitable purposes of the eligible organization or that of another nonprofit organization. Eligible nonprofit organizations must register with the Department of Justice (“DOJ”) prior to conducting a raffle and, by regulation, must file a raffle report for every raffle draw. DOJ has authority to adopt regulations necessary to effectuate the section.

This proposal seeks to amend sections 410 through 425, of Title 11, Division 1, Chapter 4.6 for the following reasons: (1) to provide clearer guidance to nonprofit organizations that are required to file raffle applications and reports with DOJ under Penal Code section 320.5; (2) to reduce the number of reports required to be filed in order to reduce the burden on filers and allow for more timely review by staff; (3) to delete and amend regulatory language for which the statutory authority has been repealed or amended; and (4) to delete and amend regulatory language to reflect current technological practices, document retention policies, and to make grammatical or technical corrections.

II. TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS.

DOJ did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of the amended regulations.

III. REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES.

There are no reasonable alternatives. The existing regulations were promulgated shortly after enactment of the statute in 2001; amendments are necessary in order to reflect current process. Corrections are necessary in order to clarify the language and content of the regulations.

IV. REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESS ANY ADVERSE IMPACT ON SMALL BUSINESS.

There is no adverse impact on small business. The proposed amendments will lessen the impact on small business because fewer reports will be filed.

V. EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The proposed regulatory amendments will lessen the burden on eligible nonprofit organizations that conduct raffles. The existing regulations require that eligible nonprofit organizations file a raffle report for each raffle draw, even if gross receipts from the draw are de minimus. The proposed amendment would permit eligible nonprofit organizations to file one raffle report

aggregating total gross receipts and expenses for all raffles held in any year in which the organization was registered to conduct raffles.

VI. PROPOSED AMENDMENTS

Proposed amendment 1:

Amendment of title of Regulations: Replace "TITLE 11, DIVISION 1, CHAPTER 4.6. NON-PROFIT RAFFLE PROGRAM REGULATIONS" with "TITLE 11, DIVISION 1, CHAPTER 4.6. NONPROFIT RAFFLE PROGRAM REGULATIONS".

Specific purpose and rationale:

The title was amended to reflect a technical correction which removes the hyphenation in the term "non-profit" and amends it to read "nonprofit". This is a non-substantive change intended to correct the spelling of the word. There is no policy or procedural change based on this amendment.

Proposed amendment 2:

Section 410 (Title and Scope) is amended to reflect a technical correction which removes the hyphenation in the word "non-profit" and amends it to read "nonprofit".

Specific purpose and rationale:

This section was amended to correct the spelling of the word. There is no policy or procedural change based on this amendment.

Proposed amendment 3:

Section 411 (Definitions) is amended to reflect a technical correction which removes the hyphenation in the word "non-profit" and amends it to read "nonprofit".

In subdivision (i), which defines the raffle registration application form, the title of the form is amended from "ct-NRP-1 (5/2002)" to "CT-NRP-1 (Rev. 05/2011)".

In subdivision (j), which refers to the raffle report form, the title is amended from "ct-NRP-2 (5/2002)" to "CT-NRP-2 (Rev. 05/2011)".

Section 411 is amended to add subdivision (k), as follows: "Responsible Fiduciary' and 'Fiduciary' mean an authorized Officer or Director of the eligible organization."

Specific purpose and rationale:

The term "non-profit" was amended to correct the spelling of the word. The form titles "ct-NRP-1 (5/2002)" and "ct-NRP-2 (5/2002)" were amended to reflect the designation of the most current forms used for raffle registration and raffle reports. Subdivision (k) was added to assist

registrants in understanding the use of the term “fiduciary”. There is no policy or procedural change based on this amendment.

Proposed amendment 4:

Section 415 (Registration) is amended to reflect a technical correction which removes the hyphenation in the word “non-profit”. The title of the raffle registration application is amended from “ct-NRP-1 (5/2002)” to “CT-NRP-1 (Rev. 05/2011)”. A minor grammatical amendment is made, replacing the word “that” with “on which”. Section 415 is amended to delete the following paragraph: “The DOJ will establish an electronic form as a means of entering registration information via the Internet. An applicant who uses the Internet shall enter the required information electronically, print the form, sign it and submit it with the required fee to the address specified in section 416. DOJ shall, after receipt of the registration application form, add to the registration application form any administrative information, as defined in section 411(a) of these regulations, which is reasonably necessary to administer or maintain the Program.”

Specific purpose and rationale:

The word “non-profit” was amended to correct the spelling of the word. The title of Form “ct-NRP-1 (5/2002)” was amended to reflect the designation of the most current form used for raffle registration. The removal of the language regarding the completion of electronic registration forms via the Internet was necessary because it does not reflect current DOJ process available online. Currently, a registrant can fill out an Adobe-fillable version of Form CT-NRP-1 online, print, sign and submit with payment. The form can be used by first-time raffle registrants or organizations renewing raffle registration. Alternatively, those registrants renewing registration can complete registration entirely online. First-time raffle registrants cannot complete registration entirely online. The removed language has been rendered obsolete by current technology and if not removed will create an impediment to technological upgrades. There is no policy or procedural change based on these amendments.

Proposed amendment 5:

Section 416 (Place of Filing) is amended to replace the word “non-profit” with “nonprofit”; to add “extension 9” to the phone number listed in the regulation, and to add the following email address: raffles@doj.ca.gov.

Specific purpose and rationale:

The word “non-profit” was amended to correct spelling of the word. The telephone number extension and email address were added to provide registrants with more specific contact information. There is no policy or procedural change based on these amendments.

Proposed amendment 6:

Section 417 (Time of Registration) is amended to delete the following language: “If an eligible organization expects to conduct a raffle between July 1, 2001 and August 31, 2002,

it shall submit a registration application which shall be postmarked or hand-delivered to the address specified in section 416 no later than September 1, 2001.” The Section is also amended to delete the term “Thereafter” and substitute an uppercase “A” for a lowercase “a.”

Specific purpose and rationale:

This regulation was drafted at the time Penal Code section 320.5 was enacted. It is being removed because it is obsolete and confusing. DOJ has administered the registration program for over ten years. The subsequent paragraph sufficiently explains when a registration form must be completed and the parameters of the raffle year. Amendments to the terms “thereafter” and “a” are technical corrections. There is no policy or procedural change based on these amendments.

Proposed amendment 7:

Section 419 (Registration Applications – Time for Processing) is amended to delete the section and entire language of the section as follows:

“(a) Within 30 calendar days after the date of receipt of a registration application, the DOJ shall either inform the applicant, in writing, that the application is complete and accepted for filing, or shall return the application as deficient and specify how the application is deficient and what information is required. If an application is returned because it is deficient, any fee submitted shall also be returned.

(b) Within 30 calendar days after the date of receipt of a completed application, including the required fee, the DOJ shall reach a decision whether to issue or deny the registration, unless the time is waived by the applicant, and shall inform the applicant in writing of the decision.

Note: Authority cited: Section 15376, Government Code; and Section 320.5, Penal Code. Reference: Section 15376, Government Code; and Section 320.5, Penal Code.”

Specific purpose and rationale:

The statutory authority for Section 419 is Government Code section 15376 and Penal Code section 320.5. Government Code section 15376 was repealed in 2003 and Penal Code section 320.5 contains no language pertaining to the time in which DOJ must process registration applications. This proposed amendment makes a procedural change and removes a requirement not specified in statute.

Proposed amendment 8:

Section 419.1 (Appeal Process) is amended to delete the entire section and language of the section as follows:

“(a) If the DOJ fails to meet the time periods for concluding the processing of an application, the applicant may apply in writing for a full refund of the application fee. The request must be received by the DOJ within 20 calendar days from the date of mailing of the final decision granting or denying the application.

(b) The DOJ shall respond within 15 calendar days from the date of receipt of a request for a refund.

(c) If the refund is denied, the applicant may directly appeal the denial in writing to the Attorney General. The appeal must be filed within 25 calendar days from the date of mailing of the denial of the refund. The appeal shall set forth a short statement of facts and a chronology of events regarding the application.

(d) The appeal in subsection (c) of this section will be promptly reviewed, and a decision will be issued within 30 calendar days from the completion of any investigation which the Attorney General deems appropriate. The appeal in subsection (c) of this section will be decided in the applicant's favor if the DOJ has exceeded its maximum time period for the issuance or denial of the registration application, and the DOJ has failed to establish good cause for exceeding this time period.

(e) The DOJ will provide information regarding this appeal process on the registration application Form ct-NRP-1 (5/2002).

Note: Authority cited: Section 15378, Government Code; and Section 320.5, Penal Code. Reference: Section 15378, Government Code; and Section 320.5, Penal Code.”

Specific purpose and rationale:

The statutory authority for Section 419.1 is Government Code section 15378 and Penal Code section 320.5. Government Code section 15378 was repealed in 2003 and Penal Code section 320.5 contains no language pertaining to an appeal process. This proposed amendment makes a procedural change and removes a requirement not specified in statute.

Proposed amendment 9:

Section 420 (Reporting Requirements) is amended and reworded and the term “each” is deleted and the terms “single” and “the raffle or raffles” are added. The term “ct-NRP-2 (5/2002)” is amended to “CT-NRP-2 (Rev. 5/2011)”.

The following sentence is deleted: “If an organization conducted more than one raffle during the reporting year, it must file a report on each raffle, but a report may be filed individually at anytime during the year or all the reports may be filed at the same time so long as they are filed on or before September 1.”

The following language is added: “A single aggregate report shall be filed even if an organization conducts more than one raffle during the reporting year.”

The following language is deleted: “The DOJ will establish an electronic means of providing the reporting information via the Internet. A registrant who uses the Internet shall enter the required information on the electronic form, print the form, sign it and submit it to the address specified in section 416. The DOJ shall, after receipt of the report form, add to the report form any administrative information, as defined in section 411(a) of these regulations.”

Specific purpose and rationale:

The term “ct-NPR-2 (5/2002)” was amended to reflect the correct form name and designation of the most current form used for raffle registrations. The removal of the language regarding the completion of electronic registration forms over the Internet was necessary because it did not reflect current processes available online. Currently, registrants can complete an Adobe-fillable version of the CT-NRP-2 online, print, sign and submit with payment. The form can be used by first-time raffle registrants and organizations renewing registration. Alternatively, those registrants renewing registration can complete registration entirely online. First-time raffle registrants cannot complete registration entirely online. The removed language has been rendered obsolete by current technology and if not removed will create an impediment to technological upgrades.

Currently, regulation requires the filing of a separate report for each raffle held during the year for which the organization registered to conduct raffles. Subsection (h)(6) of Penal Code section 320.5 requires the filing of only a single annual report that includes, among other information, the total gross receipts from all raffles held during the year. Amending regulation to provide for a single report removes a requirement not specified in statute and will allow DOJ to more timely enter data into the automated database of registrants required pursuant to subsection (h)(5).

There is a policy and procedural change based on this amendment.

Proposed amendment 10:

Section 421 (Non-Profit Raffle Program) is amended to reflect a technical correction to replace the word “non-profit” with “nonprofit”.

Specific purpose and rationale:

The word “non-profit” is amended to correct spelling of the word. There is no policy or procedural change based on this amendment.

Proposed amendment 11:

Section 425 (Requests by Attorney General) is amended to reflect a technical correction to replace the word “non-profit” with “nonprofit”. The proposed amendment also adds the phrase “including, but not limited to” pertaining to information required to be maintained and produced by the eligible organization; and to add the phrase “enable the Attorney General and other law enforcement agencies to ascertain compliance with Penal Code section 320.5 and”.

Specific purpose and rationale:

The word “non-profit” was amended to correct spelling of the word. The phrases “including, but not limited to” and “enable the Attorney General and other law enforcement agencies to ascertain compliance with Penal Code section 320.5” were added to clarify the existing regulatory requirement that eligible organizations must maintain records sufficient to demonstrate compliance with Penal Code section 320.5. There is no policy or procedural change based on this amendment.