



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WARDEN

November 18, 2004

Sonja Langan
Idaho State Lottery
1199 Shoreline Ln., Suite 100
Boise, ID 83705

HAND DELIVERY

Dear Sonja:

Please accept this correspondence in response to your inquiries to the Office of the Attorney General regarding gambling in the State of Idaho. For ease of reference, I have drafted this correspondence in a question and answer format.

Question 1: Are charity casino nights legal?

Answer: No. However, charities may conduct raffles or bingo.

Typically, when one thinks of charity casino nights, individuals are required to buy chips or "casino bucks" to play games such as poker, blackjack, roulette and other casino type games. The "casino bucks" may be traded for prizes or a chance to win in a drawing or raffle. The value of the prize or chance for prize increases with the amount of "casino bucks" won by the individual. Casino nights of this type – whether for charity or otherwise constitute illegal gambling in Idaho.

Idaho Code Section 18-3801 defines "gambling" as "risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event." There is no exception for charity casino-style gambling. This does not mean, however, that charities are without recourse.

Civil Litigation Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 334-2830
Located at 850 W. State Street
Len B. Jordan Building, Lower Level

Sonja Langan
November 18, 2004
Page 2

Under Idaho law, charities may conduct bingo and raffle games in the pursuit of charitable purposes. Charities that wish to conduct bingo and/or raffles should work closely with the Lottery to ensure that they are in strict compliance with the law.

Question 2: What if we hold a dinner and charge a fee for the dinner, but after dinner the attendees can play poker at no cost and win prizes, would this be legal?

Answer: No.

There is no distinction between offering dinner with poker and just poker by itself. In addition, whether you are holding a dinner with "free" poker or reception with "free" poker or "comedy night" with "free" poker, the poker acts as part of the inducement for people to pay the fee to attend – no matter how good the food or other attraction may be. Moreover, when the attendees are the only people who are allowed to play poker after dinner, then they have in fact paid an entrance fee or buy-in to play.

Question 3: What if we hold a casino or poker night and the prizes are donated, would this be legal?

Answer: No.

The prize, whether donated or given by an entity to the person with the most chips, constitutes "gain" under Idaho Code Section 18-3801 to the person risking their money or thing of value to play poker or casino games. The "gain" is what motivates the individual to pay to play in the first place. Therefore, regardless of whether the prize was donated, it's still considered "gain" to the person playing.

Question 3: I want to have a casino night that will comply with Idaho law. How do I do that?

Answer: If organizations or individuals insist on having a casino or poker night, they do so at their own peril. Gambling is considered a crime in Idaho and the Lottery shall enforce the gambling statutes to their fullest extent.

Should an organization attempt a casino night anyway, it must not require anything of value from a player to play, and/or the organization must not give out any type of gain or prize to the players.

Examples of "anything of value" include but are not limited to money, coupons, discounts, services, free memberships, trade, promises, etc. Keep in mind that "anything

Sonja Langan
November 18, 2004
Page 3

of value" means ANYTHING of value. Examples of "gain" include, but are not limited to money, coupons, discounts, services, trips, free memberships and anything else that can be considered a prize. "Gain" also includes a chance to go out of the State of Idaho to sit in another poker game or an *opportunity* to win something else.

Question 4: *Are card games such as Texas hold'em, seven-card stud, five-card draw, blackjack and gin rummy illegal?*

Answer: *Yes.*

Generally, card games such as poker, blackjack, Texas hold'em and gin rummy constitute illegal gambling in the State of Idaho if players are risking money, credit, deposit or anything of value for a chance of gain.

Question 5: *Why aren't some poker games advertised in Idaho not illegal?*

Answer: *Merchant advertised games such as poker do not require consideration to play.*

Indeed, some merchants in the State of Idaho have advertised promotional contests in the form of casino games such as poker or Texas hold'em. In these instances, the Lottery strives to ensure that players are not charged anything or risking any money, services or thing of value to play. In rare instances, a player is charged to play, but absolutely no prize of any type is awarded.

CONCLUSION

In the State of Idaho, "Gambling is contrary to public policy and is strictly prohibited" except for a state lottery, pari-mutuel betting and bingo and raffle games offered by a bon-a-fide charitable organization for charitable purposes. Art. III, §-20. This section continues to state, "No activities permitted by subsection (1) shall employ any form of casino gambling including, but not limited to, blackjack, craps, roulette, poker." *Id.*

Based on the Idaho Constitution, the legislature enacted Idaho Code Section 18-3801 defining gambling as "risking any money, credit deposit or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, the operation of casino gambling including, but not limited to, blackjack, craps, roulette, poker" I.C. § 18-3701 (emphasis added.)


Sonja Langan

November 18, 2004

Page 4

For individuals who gamble in Idaho, assist in gambling and/or allows gambling on the premises, they are committing a misdemeanor. For commercial entities, they also risk losing their liquor licenses. The safest bet in Idaho is not risking criminal prosecution by participating in such endeavors.

Sincerely,



Jeremy C. Chou
Deputy Attorney General
Civil Litigation Division