

TIPS AND GUIDELINES FOR GAMBLING

Unlike charitable raffles and charitable bingo, there is NO exception for gambling that is conducted for charitable purposes. Chapter 47 of the Texas Penal Code prohibits gambling and applies to nonprofits and for profits equally. In Texas, it is illegal to sponsor or promote games like poker, blackjack, craps, or Texas Hold'em, where a participant pays to play or places bets for money or other prizes.

For example, charity "Poker Runs," in which participants submit a donation to charity in exchange for the chance to draw cards at various locations and compete for prizes, are illegal. Likewise, charity "Casino Nights" are impermissible if an entry fee is required, or if chips must be purchased, in order to play or place bets for prizes.

In discussing gambling issues, people often ask about the impact of holding the event in a private place, hiring a private company, and serving alcohol. Each is addressed below.

Private Places. While there is a "private place" exception under the Penal Code, it only applies when (1) the gambling is held in a private place, (2) no person received any economic benefit other than personal winnings, and (3) the risk of losing or winning was the same for all participants. The second element is of key importance. Because "no person" can receive any benefit other than his or her own winnings, this means that the entity providing the gambling activities cannot keep any of the proceeds. Again, this is true whether or not the proceeds are for a charitable purpose.

Private companies. Hiring a private company to provide the gambling services does not alter whether or not the underlying gambling activities will be permissible under Texas law. You must be sure to structure the event in such a way that gambling laws are not violated.

Alcohol. Providing the service of alcohol at the event does not alter the basic rules regarding illegal gambling. The Texas Alcoholic Beverage Commission Administration Rules simply prohibits any licensee from committing, or permitting anyone else on their premises from committing, any gambling offense under Chapter 47 of the Texas Penal Code.

What others are doing. One final note of caution: Just because you see another business or charity conducting a casino night or Poker Run does not mean that it is legal. Gaming violations may not always be prosecuted, but it is important to remember that they can be!

The bottom line. If a donation or entry fee is not required to participate, then traditional poker tournaments, "Poker Runs," and casino nights would be permissible and participants could play or place bets to win various prizes. But if a donation or entry fee is required, then prizes of value cannot be awarded to winners. In other words, the gambling activities have to be purely for fun. One option that may be worth considering is to include a live auction with donated items during the event. If you have additional questions, then be sure to seek counsel.