

Social & Charitable Gaming CLE
ISBA Administrative Law Section
Presented by: Stacey Hall & Deborah Svec-Carstens
November 21, 2014

- I. Introduction – Is it Gambling?
 - a. It is gambling if there is consideration, chance and a prize.
 - b. Iowa has an unusually broad “illegal lottery” statute which can make an activity that involves substantial element of chance in awarding prizes illegal even if only one participant has provided consideration. Iowa Code § 725.12.
 - c. If it is gambling, to be legal in Iowa it must be authorized under 99B (charitable & social gaming, 99D (racing), 99F (casinos), or 99G (lottery). Iowa Code § 725.15.
- II. Social and Charitable Gaming
 - a. Code Chapter 99B and 481 IAC chapters 100, 102, 103 are complex as written – lots of cross-references, can be confusing
 - b. Hitting the highlights today, not enough time to go into detail
 - c. Encouraged to read the statute and rules; if questions, contact DIA
 - i. Dan Horner, Program Auditor, Department of Inspections & Appeals, Social & Charitable Gaming Bureau: 515/281-6840
- III. Qualified Organization
 - a. Must be a qualified organization in order to obtain certain social & charitable gaming licenses, including raffles, bingo, games of skill, games of chance (see Iowa Code section 99B.7(1)(m); 481 IAC 100.3, 100.30)
 - b. Not-for-profit with active membership of 12 or more and not self-perpetuating
 - i. Provide copy of IRS determination letter
 - ii. For a 2-year license, must have been in existence for at least 5 years or be a local chapter of a national non-profit organization that has been in existence for at least 5 years
 - iii. Credit reference
 - c. Governmental agency
 - d. PTO, booster club or school
 - e. Political candidate, political party, or non-party political organization (PACs are not eligible for gambling licenses)
- IV. Types of licenses for Qualified Organizations
 - a. 14-day (\$15): games of skill/chance, raffles, bingo
 - b. 90-day (\$40): raffles
 - c. 180-day (\$75): raffles
 - d. One year (\$150): raffles
 - e. Two year (\$150): games of skill/chance, raffles, bingo
 - f. Qualified Organization Real Property or Large Cash Prize Raffle (\$100): required for raffle of merchandise valued over \$100,000 (i.e., house) with no upper limit or cash over \$100,000 but less than \$200,000 (must also have either one-year or two-year license covering the entire period of this license)
 - g. There are certain requirements / restrictions with each license type, e.g., number of small / large raffles allowed per calendar year, number of bingo occasion per

week/month. Talk to DIA with questions about which license best fits the organization's objectives.

V. Raffle

- a. Lottery (defined in section 725.12(3)) in which each participant buys a ticket for a chance to win a prize
- b. Winner determined by random method
- c. Winner not required to be present to win
- d. Small raffle: aggregate value of all prizes \$10,000 or less
- e. Large raffle: aggregate value of all prizes over \$10,000 (limited to one large raffle per calendar year)
- f. When determining what type of license, remember that the period of the raffle license must cover the promotion of the raffle, sales of raffle tickets and the drawing for the prize(s)
- g. Violates a federal law to use U.S. Postal Service to mail raffle tickets 18 USC 1302

VI. Game of Skill & Game of Chance

- a. Game of Skill: Player has to do something to determine the result (e.g., throw objects to designated area or target)
- b. Game of Chance: result determined by chance; player pushes a button or aligns an objects in prescribed pattern or order; includes bingo, does NOT include slot machine
- c. Qualified organization: prizes limited to \$1000 in merchandise
- d. Non-QO: limited to \$50 in merchandise (ex: State Fair, county fairs, city celebrations, amusement parks)
- e. "rules of the game" must be posted
- f. These are games you would see at carnival or fair; does not include casino style games

VII. Annual Game Nights

- a. Three types of licenses: eligible qualified organization, qualified organization, non-qualified organization
- b. Eligible qualified organization
 - i. Definition: A qualified organization representing veterans, volunteer emergency services providers, or 501(c)(3), IF the 501(c)(3) has conducted annual game night between 1/1/2001 and 12/31/2006
 - ii. No more than \$250/participant for entrance fee, game participation fees and wagers
 - iii. May award cash or merchandise prizes, total value of all prizes no more than \$10,000
 - iv. Participant cannot win more than \$5,000 in cash and merchandise
 - v. One game night per year, anyone may participate
- c. Qualified organization
 - i. No more than \$250/participant for entrance fee, game participation fees and wagers
 - ii. Only merchandise prizes, value not to exceed \$10,000 (gift cards allowed only if redeemable for merchandise, not cash)
 - iii. One game night per year, anyone may participate

- iv. Entrance fee is taxable (except city or county government) (Iowa Department of Revenue audits)
 - d. Non-qualified organization
 - i. License required
 - ii. All participants must have a bona fide social or employment relationship
 - iii. No one can pay any consideration directly or indirectly to participate in the games – may not charge entrance fee or participation fee
 - iv. Sponsor cannot receive any consideration
 - v. No restrictions or limits on prizes
 - vi. No reports required
 - vii. One game night per year
 - e. Schools – exempt from licensure if
 - i. Game night approved by school board
 - ii. Only students may participate
 - iii. No participation fees allowed; only play money
 - iv. No restrictions or limits on prizes
 - v. No reports required; no restriction on frequency of game nights
 - f. Games of skill, games of chance and card games are allowed
 - g. Slot machines not allowed
 - h. Social gambling not allowed
 - i. Game night cannot be longer than 16 consecutive hours
 - j. Must be held at the location indicated on the application
 - k. References: Iowa Code section 99B.8, 481 IAC 107
- VIII. Rules Applicable to All Games Conducted by Qualified Organization
 - a. No person receives or has any right to receive any profit, remuneration, or compensation from the games except any amount which may be won on the same basis as other participants
 - b. Persons conducting the game or raffle cannot participate in the game or raffle
 - c. Ticket prices (including discounts) must be the same for all participants
 - d. Only cash may be used to purchase tickets or participate in games
 - e. Games must be conducted in a fair and honest manner
 - f. Merchandise cannot be repurchased
 - g. No prize is displayed which cannot be won
 - h. Cash prizes must be distributed the same day as they are won
 - i. At least 75% of net receipts must be dedicated for educational, civic, public, charitable, patriotic or religious uses
 - j. Winnings over \$600 require deduction of 5% withholding taxes for State of Iowa
 - k. Must remit sales tax on the gross receipts of the gambling activity (includes state sales tax of 6% plus applicable local option sales tax)
 - l. Must submit annual gambling report to DIA
- IX. Bingo
 - a. Statute 99B and rules have complex and detailed requirements for bingo, including prize limits, posting requirements, cost to play the game, type of payment (cash or check, no credit cards), etc.
 - b. Bingo rules found at 481 IAC chapter 103
 - c. Detailed records must be kept, 481 IAC 103.13

- X. Reporting
 - a. Annual reports required for all charitable gaming
 - b. Period covered by annual report: July 1 to June 30
 - c. Licensees (except city and county governments) must pay sales tax on gambling proceeds (contact Iowa Dept of Revenue)
 - d. Gambling receipts less expenses, taxes, prizes must be distributed to charitable, religious, civic, public or patriotic uses by July 30 (30 days following the end of the annual reporting period)
 - e. References: Iowa Code §§ 99B.2, 99B.7; 481 IAC chapters 100 and 103
- XI. Social Gambling License – Social Gambling in Public Places without liquor license
 - a. Required for gambling between individuals of any age in a public place
 - b. Premises **cannot** have a liquor license or beer permit
 - c. Two-year license is \$100
 - d. Participation
 - i. Must be a bona fide social relationship between 2 or more people who are in the establishment for reasons other than gambling
 - ii. Licensee, agents of licensee or employees shall not sponsor, conduct or promote any game; they may participate in the game as any other participant
 - iii. No participant may win or lose more than \$50 in cash or other consideration during any 24 hour period
 - iv. Can be no participation charge, cover charge or other charge for participating in or observing gambling
 - e. Permissible games
 - i. Card games: poker, pinochle, pitch, gin rummy, bridge, euchre, hearts
 - ii. Parlor games: cribbage, dominoes, checkers, chess, backgammon, darts, pool
 - f. Impermissible activities
 - i. Poker tournaments and poker runs (poker is permissible, tournaments and runs are not)
 - ii. Generally, games customarily played in a casino for which the house provides a banker, dealer or croupier, or which require a specially designed table shall not be allowed (exception: poker)
 - iii. Examples: bookmaking, punchboard, pushcard, pull-tab, slot machine, craps, chuck-a-luck, roulette, Klondike, blackjack, chemin de fer, baccarat, faro, equality, or three card monte
 - iv. Sports betting pools not allowed
 - g. Reference: Iowa Code §§ 99B.6, 99B.9, 99B.12; 481 IAC chapter 102
- XII. Social gambling license – games where beer or liquor is sold
 - a. Premises must have Class A, B, C or D liquor control license or Class B beer permit
 - b. Two-year license is \$150
 - c. Participation
 - i. Bona fide social relationship must exist between all participants
 - ii. Participants must 21 or older and in the establishment for reasons other than gambling

- iii. Licensee, agents of licensee or employees shall not sponsor, conduct, or promote any game; they may participate as any other participant
 - iv. No participant may win/lose more than \$50 in cash or other consideration during 24 hour period
 - v. Cannot require participants to pay participation charge, cover charge or other charge for participating or observing gambling
 - d. Permissible games
 - i. Card and parlor games: poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominoes, checkers, chess, backgammon, darts or pool
 - ii. Sports betting pools allowed (specific rules apply, e.g., must be in grid format, up to \$5 wager, max winnings \$500)
 - e. Impermissible games (same as social gambling in public places)
 - i. Generally, games customarily played in a casino for which the house provides a banker, dealer or croupier, or which require a specially designed table shall not be allowed (exception: poker)
 - ii. Examples: bookmaking, punchboard, pushcard, pull-tab, slot machine, craps, chuck-a-luck, roulette, Klondike, blackjack, chemin de fer, baccarat, faro, equality, or three card monte
 - f. References: 99B.6, 99B.12; 481 IAC chapter 102
- XIII. Sports betting pools
 - a. Must have liquor license or beer permit
 - b. Must have 2-year social gambling license (\$150)
 - c. Participants 21 or older
 - d. Max wager is \$5; max winnings \$500 per pool (all \$ wagered must be awarded to participants)
 - e. Sports betting pool is a grid (see <http://www.dia.iowa.gov/SportsBettingGuidelines.pdf>)
 - f. Can't charge someone to participate or observe
- XIV. NCAA Basketball Tournament
 - a. Subset of sports betting pool
 - b. In beer and liquor establishment, gambling by way of filling in NCAA Basketball Tournament brackets is not allowed; sports betting pool allowed for **individual games** of the tournament, must follow sports betting pool guidelines; must have 2-year social gambling license
 - c. All other locations (office pool, etc.): gambling on NCAA Tournament is allowed IF
 - i. No participant wins or loses more than total of \$50 in one or more games at any time during any period of 24 hours
 - ii. All participants are individuals; no one can participate as agent of someone else
 - iii. No minimum age
 - iv. Fair and honest manner
 - v. No one receives any profit other than what a person can win as a participant
 - d. References: 99B.6, 99B.12, 481 IAC 102
- XV. Contests

- a. Bona fide Contests - Can charge entrance fee and award prizes without license for following contests:
 - i. Athletic or sporting contests, leagues or tournaments, rodeos, horse shows, golf, bowling, trap or skeet shoots, fly casting, tractor pulling, rifle, pistol, musket, muzzle-loader, pool, darts, archery, and horseshoe contests, leagues, or tournaments.
 - ii. Horse races, harness racing, ski, airplane, snowmobile, raft, boat, bicycle and motor vehicle races.
 - iii. Contests or exhibitions of cooking, horticulture, livestock, poultry, fish or other animals, artwork, hobbywork or craftwork, except those prohibited by chapter 717A.
 - iv. Cribbage, bridge, chess, checkers, dominoes, pinochle and similar contests, leagues or tournaments.
 - v. A video machine golf tournament game (Golden Tee)
 - b. Poker, blackjack, craps, keno, roulette not permitted
 - c. Individuals in the physical presence of one another may wager on these contests (subject to the prohibitions on social gambling)
 - d. References: 99B.11
- XVI. Games between individuals
- a. Individuals with a bona fide social relationship in the physical presence of one another may wager on:
 - i. Card and parlor games (poker, gin, bridge and other card games, pool, darts, chess, etc).
 - ii. Other games of skill or chance or bona fide contests.
 - iii. Any other event or outcome that doesn't depend on (illegal) gambling or the use of a gambling device
 - b. Individuals cannot engage in bookmaking or play punchboards, pushcards, pull-tabs, slot machines, craps, chuck-a-luck, roulette, klondike, blackjack, chemin de fer, baccarate, faro, equality, three-card monte or any other game (except poker) which is customarily played in casinos.
 - c. Cannot wager or win more than \$50 total in any 24-hour period
 - d. Cannot act as an agent and place a wager for another person
 - e. Cannot wager on athletic event if you are coach, official, player or contestant
 - f. No one is charged a cover fee and no receives any profit or compensation for the gambling other than what can be won as a participant
 - g. References: 99B.14
- XVII. Company Games
- a. Games of skill, chance and card games may be conducted without a license if:
 - i. Bona fide social, employment, trade or professional association relationship exists between sponsors and participants
 - ii. Participants pay no direct or indirect consideration and sponsor receives no consideration other than good will
 - iii. Only "play money" or items of no intrinsic value used to wager and are provided free
 - b. Can use gambling devices
 - c. References: 99B.18

Social and Charitable Gaming

November 21, 2014

PRESENTERS:

Deborah Svec-Carstens, Department of Inspection & Appeals
Stacey Hall, Nyemaster Goode, P.C.

Is It Gambling?

- Yes, if there is:
 - Consideration
 - Chance
 - Prize
- Under Iowa “illegal lottery” statute an activity can be illegal gambling if only one person provides consideration
- If it is gambling it must be authorized under Iowa law to be legal

Social & Charitable Gaming

- Permitted under 99B, 418 IAC 100, 102, 103
- Confusing, with lots of cross-references
- Read statute and rules
- If questions, contact DIA or attorney practicing in area

Charitable Gaming Qualified Organization

- Must be qualified organization to conduct raffles, bingo, games of skill, games of chance
 - Not-for-profit with active membership of 12 or more and not self-perpetuating
 - Governmental agency
 - PTO, booster club or school
 - Political candidates, parties, or non-party political organizations (PACs not eligible)

Charitable Gaming Type of Licenses

- 14-day (\$15): games of skill/chance, raffles, bingo
- 90-day (\$40): raffles
- 180-day (\$75): raffles
- 1 year (\$150): raffles
- 2 year (\$150): games of skill/chance, raffles, bingo
 - To qualify, local or national organization must have been in existence for 5 years
- Real Property or Large Cash Raffle

Charitable Gaming Raffles

- Lottery in which participant buys a ticket for a chance to win a prize
- Winner determined by random method
- Winner cannot be required to be present to win
- \$10K or less = small raffle
- More than \$10K = large raffle

Charitable Gaming Raffles

- License period must cover promotion, sales and drawing
- Raffle tickets cannot be mailed
- Raffle tickets must be paid for with cash only, no credit cards permitted
- Must have set ticket price equal for everyone

Charitable Gaming Games of Skill/Games of Chance

- Game of Skill = player has to do something to determine result
- Game of Chance = result determined by chance
- Prizes
 - QO: merchandise, limit \$1000
 - Non-QO: merchandise, limit \$50
- Rules of game must be posted
- Carnival/fair games

Charitable Gaming Annual Game Nights

- Three types of licenses:
 - Eligible Qualified Organization
 - Qualified Organization
 - Non-qualified organization
- Limits based on type of organization/license
 - Value of prizes
 - Amount participant can spend/win

Charitable Gaming Annual Game Nights

- Qualified Organization
 - No more than \$250/participant for entrance fee, game participation fees, and wagers
 - Only merchandise prizes, value not to exceed \$10,000 (gift cards if redeemable for merchandise only, not cash)
 - Only one game night per year, anyone may participate
 - Entrance fee is taxable (unless city, county gov't)
 - Dept of Revenue audits

Charitable Gaming Annual Game Nights

- **Eligible Qualified Organization**
 - Includes veterans groups or emergency services providers (EMS)
 - No more than \$250/participant for entrance fee, game participation fees and wagers
 - May award cash or merchandise prizes, total value of all prizes no more than \$10,000
 - Participant cannot win more than \$5000 in cash and merchandise
 - Only one game night per year, anyone may participate

Charitable Gaming Annual Game Nights

- **Non-qualified Organization**
 - Participants and sponsor have bona fide social or employment relationship
 - May not charge entrance fee or participation fee
 - Sponsor cannot receive any consideration
 - No restrictions or limits on prizes
 - No reports required
 - One game night per year

Charitable Gaming Annual Game Nights

- Schools – exempt from licensure IF
 - Game night approved by school board
 - Only students may participate
 - No participation fees allowed; only play money
 - No restrictions or limits on prizes
 - No reports required; no restriction on frequency of game nights

Charitable Gaming Annual Game Nights

- Games of skill, games of chance, card games
- Slot machines not allowed
- Social gambling not allowed
- No longer than 16 consecutive hours
- Must be held at the location on the application

Charitable Gaming General Rules

- No person can receive any profit, remuneration, or compensation from games except any prize
- Persons conducting game/raffle cannot participate
- Ticket prices must be the same for all
- Only cash can be used to purchase tickets/participate

Charitable Gaming General Rules

- Conducted in fair and honest manner
- Conducted on premises owned or leased by licensee
- If premises “rented” from a non-licensee, non-licensee cannot have a right to receive portion of proceeds from games and cannot have a liquor license or beer permit
- No repurchase of merchandise
- Cash prizes distributed same day as won

Charitable Gaming General Rules

- At least 75% of net receipts must be dedicated for educational, civic, public, charitable, patriotic or religious uses
- Taxes
 - Withholding taxes for prizes over \$600
 - Sales taxes on proceeds (except governmental agencies)

Charitable Gaming Annual Report

- Annual reports required for all charitable gaming (July 1 to June 30)
- Gambling receipts less expenses, taxes, prizes must be distributed to charitable, religious, civic, public or patriotic uses by July 30 (30 days following end of annual reporting period)

Social Gaming No Liquor License

- Premises needs license for all gambling between individuals of any age
- Two-year license
- Bona fide social relationship between people in establishment for reasons other than gambling
- License holder cannot sponsor, conduct or promote any game BUT can participate
- No more than \$50 won/loss in any 24-hour period
- No charge for participating or observing gambling

Social Gaming No Liquor License

- **Permissible Games**
 - Card games: poker, pinochle, pitch, gin rummy, bridge, euchre, hearts
 - Parlor Games: cribbage, dominoes, checkers, chess, backgammon, darts, pool
- **Impermissible Games**
 - Poker tournaments/runs (poker is permissible)
 - Casino games for which the house provides a banker/dealer
 - Ex: bookmaking, punchboard, pushcard, pull-table, slot machine, craps, etc.
 - No sports betting pools

Social Gaming Liquor License

- Class A, B, C, or D liquor license, Class B beer permit
- Two-year license
- Bona fide social relationship between people 21 or older in establishment for reasons other than gambling
- License holder cannot sponsor, conduct or promote any game BUT can participate
- No more than \$50 won/loss in any 24-hour period
- No charge for participating or observing gambling

Social Gaming Liquor License

- **Permissible Games**
 - Card games: poker, pinochle, pitch, gin rummy, bridge, euchre, hearts
 - Parlor Games: cribbage, dominoes, checkers, chess, backgammon, darts, pool
 - Sports betting pools
- **Impermissible Games**
 - Same as non-liquor license establishment (other than sport betting pools)

Social Gaming Liquor License

- Penalties against liquor license for violations
- \$1000 Fine
- 21-day suspension of liquor license

Social Gaming Sports Betting Pools

- Must have liquor license or beer permit and 2-year social gambling license
- Participants 21 or older
- Max wager is \$5, max winnings \$500 per pool (all \$ wagered must be awarded)
- Sports betting pool is a grid
- Can't charge someone to participate or observe

Sports Betting Pool - Grid

| | 1 | 2 | 3 | 4 |
|----------|----------|----------|----------|----------|
| 1 | | | | |
| 2 | | X | | |
| 3 | | | | |
| 4 | | | | |

Social Gaming NCAA Basketball Tournament

- In beer and liquor establishment
 - No wagering by filling brackets, but betting pool allowed for individual games
 - Must have 2-year license

Social Gaming NCAA Basketball Tournament

- In other locations:
 - No participant wins/loses more than \$50 in 24 hour period
 - All participant individuals, no agents
 - No minimum age
 - Fair and honest manner
 - No one receives profit, other than through participant

Social Gaming Bona Fide Contests

- Can charge entrance fee and award prizes without license for certain contests
 - Athletic/sporting contests, leagues or tournaments, rodeos, horse shows, golf, bowling, trap or skeet shoots, fly casting, tractor pulling, rifle, pistol, musket, muzzle-loader, pool, darts, archery, and horseshoe contests, leagues, or tournaments.
 - Horse races, harness racing, ski, airplane, snowmobile, raft, boat, bicycle and motor vehicle races.

Social Gaming Bona Fide Contests

- Contests or exhibitions of cooking, horticulture, livestock, poultry, fish or other animals, artwork, hobbywork or craftwork, except those prohibited by chapter 717A.
- Cribbage, bridge, chess, checkers, dominoes, pinochle and similar contests, leagues or tournaments.
- A video machine golf tournament game (Golden Tee)

Social Gaming Contests

- Poker, blackjack, craps, keno, roulette not permitted
- Individuals in the physical presence of one another may wager on these contests (subject to the prohibitions on social gambling)
- Legislation last session attempted to add fantasy sports to list of contests

Social Gaming Between Individuals

- Individuals with a bona fide social relationship in the physical presence of one another may wager on:
- Card and parlor games (poker, gin, bridge and other card games, pool, darts, chess, etc)
- Other games of skill or chance or contests
- Any other event or outcome that doesn't depend on (illegal) gambling or the use of a gambling device

Social Gaming Between Individuals

- Individuals cannot engage in bookmaking or play punchboards, pushcards, pull-tabs, slot machines, craps, chuck-a-luck, roulette, klondike, blackjack, chemin de fer, baccarate, faro, equality, three-card monte or any other game (except poker) which is customarily played in casinos

Social Gaming Between Individuals

- Cannot wager or win more than \$50/24-hours
- No one can wager for another person
- Cannot wager on athletic event if you are coach, official, player or contestant
- No one is charged a cover fee and no receives any profit or compensation for the gambling other than what can be won as a participant

Social Gaming Company Games

- Games of skill, chance and card games may be conducted without a license if:
 - Bona fide social, employment, trade or professional association relationship exists between sponsors and participants
 - Participants pay no direct or indirect consideration and sponsor receives no consideration other than good will
 - Only “play money” or items of no intrinsic value used to wager and are provided free
- Can use gambling devices

Enforcement

- Division of Criminal Investigation (DCI) can investigate to determine compliance
 - On own initiative or at request of DIA
- Person charged with violating chapter, is prosecuted by attorney general or county attorney

Questions?

- Stacey Hall, Nyemaster Goode, P.C.
 - Shall@nyemaster.com
 - 319/286-7048
- Iowa Dept of Inspections & Appeals
 - Dan Horner, 515/281-6840
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