

End of casino nights?



Dan Coyro/Sentinel

Gaming proves lucrative for non-profit groups; above, Santa Cruz High Music Department casino night, 1986.

New bill must pass to protect popular fund-raisers

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CASINO NIGHTS, lucrative fund-raising events for local non-profit organizations, may have been dealt an unlucky hand by the state Attorney General's Office.

In April, Attorney General John Van De Kamp and his assistant, Jack Winkler, stated that such events are illegal. Their opinion says it is unlawful to put on an event in which admission tickets are sold to those who come to play casino-type games in which chips can be exchanged for items of value.

Since the opinion, however, a bill is pending in the state Legislature to allow non-profit groups to put on such events. However, some experts say it may take a change in the state Constitution, too. So, it's anybody's wager what will happen to casino nights.

The Santa Cruz County District Attorney's Office is "in the process of researching the opinion," said Assistant District Attorney Jon Hopkins. In the meantime, local casino night organizers are as nervous as a gambler who's bet an entire night's winnings on one hand of blackjack.

"An opinion is not a binding interpretation of the law, although it carries some weight," Hopkins said. "We are concerned about enforcing the law. But at the same time, we recognize that a lot of charitable organizations desperately need to raise funds in some manner."

Margaret Relph, who's worked on numerous casino nights for the Soquel High Music Foundation, says that outlawing such events would be devastating.

"It would be really hard for the school to raise that kind of money for the same amount of work. It is getting harder and harder for non-profit organizations to

raise money. You can nickel and dime yourself to death with hot dog sales and brownie sales," Relph said.

The Music Foundation was one of the first groups in the county to put on a casino night, the first one being seven years ago, Relph said. That initial event brought in \$6,000. The money raised at the annual event is used to pay for a pianist who accompanies all the vocal music programs and for music scholarships.

The Aptos High School Booster Club raised \$4,000 the first year it put on a casino night, \$9,000 the second year and \$4,000 this year, according to club president Miriam Sillen.

"I know many groups would be upset if someone said no more casino nights," Sillen said. "Omega Nu and Rotary do one together. A lot of good is done with the proceeds from these events. With cutbacks in athletic programs, we wouldn't have the football field lights or a new snack shack if it wasn't for casino nights."

"I see no difference between casino nights and bingo," she added.

THE DIFFERENCE is that the state Constitution, which prohibits lotteries, makes an exception for bingo games put on by charitable organizations, according to Winkler, co-author of the controversial opinion.

The constitution also makes exceptions for the state lottery and horse racing.

The attorney general concluded in the opinion that "a charitable organization may not lawfully sponsor or conduct a 'casino night' event for which tickets are sold to the general public where those attending would be given chips with which to play roulette, twenty-one, and similar types of games and the chips won by the players would be used at the end of

the event to (1) acquire raffle tickets to be drawn for valuable merchandise or (2) bid at auction for valuable merchandise."

In a telephone interview, Winkler said that such casino nights are illegal because they violate two things: Penal Code section 330 and the constitutional provision against lotteries.

Section 330 makes it a misdemeanor to play or conduct a casino-type game for money or for something that is representative of value. The opinion states that in the casino night described, because the chips won can be used to acquire raffle tickets for valuable merchandise or bid at auction for valuable merchandise, "the chips are 'representative of value' and section 330 is violated."

The opinion goes on to state that casino nights may be considered lotteries when they include a raffle for prizes or when they include lottery-type games.

By definition, a lottery must embrace the three criteria of a lottery — (1) a prize; (2) distributed by chance; and (3) consideration, or payment necessary for a chance to win.

In a telephone interview, Winkler said charitable groups might be able to legalize their casino operations by not offering prizes.

"The questions are: Does it violate 330 and is it a lottery? If the chips can't be converted into something of value, then they are not playing for money or something representative of value. So, there is no violation of 330."

"Is it a lottery? There, the consideration question is different. It has to do with whether they paid something (the consideration) for the chance to win. By buying tickets, they are paying something for a prize. If nothing of value is given, the prize element may be lacking."

Assemblyman Tom McClintock, R-Camarillo, has introduced legislation

(AB3588) to allow charitable groups to put on casino nights, but Winkler believes it is going to take more than a vote by the state Legislature.

"There is a general prohibition in the constitution against allowing lotteries, so that deprives the Legislature the power to authorize that ... The people would have to change the constitution. That would take a ballot measure for a constitutional amendment."

"The Legislature could change the language of 330. It could remove the listing of (outlawed) games. The constitutional restriction refers to lotteries only."

VAN DE KAMP and Winkler looked into the casino night question at the request of the Santa Barbara District Attorney's Office.

Seems the Santa Barbara District Attorney was having a bit of a problem with the Sheriff's Department raiding casino nights. The DA's office did not know whether the games actually were illegal.

"We had law enforcement involved in a few," said Santa Barbara Assistant DA Pat McKinley. "They would go in and when the game didn't appear to be operating lawfully, they would confiscate the money and they would come to our office as illegal gambling or lottery operations."

When the DA's office checked with other DA's offices throughout the state, it found that some counties allowed casino nights, while others — such as Kern County — deemed them illegal, McKinley said.

"And some said that if you let people play for free, then it would be all right. That is why we asked for the opinion," said McKinley, who also believes it will now probably take a constitutional amendment for the dice to roll once again at casino nights.