




OFFICE OF COUNTY COUNSEL
INTER-DEPARTMENT MEMORANDUM

TO: Members of the Board of Supervisors

FROM: Edward L. Knapp, Chief Ass't. County Counsel 

DATE: May 1, 2007

RE: Proposed Revisions to County Cardroom Ordinance, §9.45 et seq.

The State Department of Justice has advised El Dorado County that the County's existing cardroom ordinance, Ordinance Code §9.45 et seq., has become out of date as a result of various changes in state law since the last revision of the cardroom ordinance in 1999.

County Counsel's Office has undertaken to prepare an ordinance for Board consideration which makes the amendments necessary to bring the cardroom ordinance into compliance with state law. Attached hereto is a strikethrough-and-underline version of the ordinance showing the proposed changes.

CARDROOM REGULATION

Cardrooms are pervasively regulated by the State Department of Justice Division of Gambling Control and by the State Gambling Control Commission. In enacting the Gambling Control Act ("Act"), the Legislature intended to have concurrent jurisdiction with local governments over gambling establishments, and to provide uniform minimum standards of regulation of permissible gambling activities. The State Act requires the owner of a gambling establishment to have a valid state gambling license, plus every cardroom supervisor must have a key employee license, and all cardroom employees must have a work permit. As long as it is not inconsistent with the Act, a county has the authority to prohibit any gambling activity, impose more stringent local controls or conditions upon gambling than are imposed by the Act or by the commission, and inspect gambling premises to enforce applicable state and local laws. Business & Professions

Code §19860(a) provides that the State Gambling Control Commission shall deny a license to a gambling establishment if the county does not have an ordinance governing hours of operation, patron security, location, wagering limits, and the number of gaming tables.

COUNTY CARDROOM ORDINANCE

The County has had a cardroom ordinance for many decades. The present cardroom ordinance is at Ordinance Code §9.45 et seq. The last revision of the County cardroom ordinance took place in 1999 in order to bring it into compliance with state law as it existed at that time. Subsequent changes to state law mandate that it be changed again.

Business & Professions Code §19961 provides that a County cannot amend an existing cardroom ordinance in such a way as to expand gambling unless the changes are approved by the voters. The amendments proposed herein will not to expand gambling as defined in the statute. Most of the proposed amendments are mandated by state law and are innocuous, so they are not discussed in this memorandum. Only three of the changes allow some discretion on the part of the Board. These are (1) the number of players per table, (2) the hours of operation and (3) the maximum wagering limitation. Each is discussed in turn below.

Players Per Table: County Ordinance Code §9.45.080A limits the number of gaming tables per cardroom to a maximum of 7 per establishment. The license for the County's only cardroom, the Black Sheep Casino in Cameron Park, limits that particular operation to 4 tables. Present Ordinance Code §9.45.150C limits the number of players per table to a maximum of 8. The owner of the Black Sheep Casino has requested that the limit on players be raised from the present 8 to 10 because this is more suited to the types of card games now being played (Texas Holdem and Omaha). The proposed new ordinance therefore raises the maximum to 10 players per table.

This increase in the number of players per table is not considered an expansion of gambling under State law. State law limits the number of tables,¹ but not the number of players per table, perhaps because the nature of the popular games themselves provide a natural upper limit on the number of players per table. No increase in the number of gaming tables is being proposed at this time.

The Board of Supervisors can adopt the ordinance as proposed with an increase in the number of players per table, or can leave it as is, or can reduce the number of players

¹ Business & Professions Code §19961(b) prevents a County from increasing the number of gaming tables in the county, or in any given cardroom, by more than 25% unless approved by the voters. Business & Professions Code §19961.05 allows the number of gaming tables to increase by 2 tables, or 24.99 percent, whichever is greater, without approval by voters.

per table. Any reduction in the number of players below 8 would be problematic if applied to the Black Sheep casino since it has historically operated with 8 players per table.

Hours of Operation: "Hours of operation" is defined in Business & Professions Code §19805(q) as the period during which a gambling establishment is open to conduct the play of controlled games within a 24-hour period. The county cardroom ordinance adopted in 1982 did not have any express limitation on the hours of operation and hence allowed operation for 24 hours a day. The County license for the Black Sheep Casino, issued in 1992, contains no limit on the hours of operation. The present County cardroom ordinance (adopted in 1999) also has no specific limit on hours, but under Ordinance §9.45.040C(2), the cardroom operator must submit proposed limits when applying to the Sheriff for a cardroom license.

The Department of Justice has indicated that the county ordinance must be amended to state a specific limitation on hours of operation, or state that there is no limitation on hours of operation.² The Black Sheep Casino currently operates Monday through Saturday from 6:00 p.m. until the end of game, and Sunday from 3:00 p.m. until end of game. These hours of operation have apparently not generated any complaints or controversy. The owner of the Black Sheep casino has requested that the ordinance specifically state that cardroom gambling is allowed 24 hours per day so that in the future he will have the flexibility to alter its hours of operation if that becomes desirable. The Development Services Department has noted that, in general, the hours of operation can best be determined when a cardroom seeks a permit to operate or a cardroom license, and the precise hours of operation can be considered at that time in the context of the proposed location and its particular characteristics. This suggestion would only affect new cardrooms, which are unlikely given the state statutes prohibiting any expansion of gambling in the county.

Proposed new Ordinance §9.45.150L continues the County's historical position that gambling is permitted 24 hours per day, but also incorporates the recommendation of the Development Services Department by stating that the hours of operation may be restricted by a use permit or cardroom license. This would allow for a limitation on gaming hours for any new cardroom if that appears appropriate at the time a use permit or a cardroom license is applied for. However, if the Board wishes, the county ordinance could lawfully impose a limitation on the hours of operation of cardrooms. It would be problematic to restrict the current hours of operation of the Black Sheep casino which has historically operated without restriction.

Wagering Limit: A wagering limit is mandated by Business & Professions Code §19860(a)(4). The present cardroom ordinance has none, but requires an applicant for a

² Business & Professions Code §19961(b)(5) prevents a county from amending its ordinance to allow an increase of more than 25% in the hours of operation. This doesn't apply to El Dorado County since no prior ordinance had any limitation on hours of operation.

license to propose “rules for wagering limits in each game to be carried on in the cardroom.” The license for the Black Sheep casino was issued before the present ordinance was adopted so it has no wagering limit.

The Department of Justice has advised that in its opinion “the wagering limit is a fundamental policy decision that must be made by the local government,” and recommends that the County ordinance be amended to either state a specific wagering limit, or state that there is no limit on wagering. Any change to a wagering limit is not considered an expansion of gambling under Business & Professions Code §19962(c), so the Board could lawfully include a wagering limit in any amount, or state that there is no wagering limit. Proposed new Ordinance Code §9.45.110M continues the County’s historical position that there is no maximum wagering limit. No limit was suggested by the operator of the Black Sheep Casino as being in accord with the past practice of El Dorado County and its neighboring jurisdictions, compatible with player interests, and necessitated by the competitive realities of gaming in California. The Board has the option of imposing a maximum wagering limit if it deems it advisable.

PROCEDURE FOR APPROVAL

This office has previously sent proposed amendments of the cardroom ordinance to the Department of Justice, which has indicated that the proposed new ordinance would be approved in its current form, and also that the alternatives outlined above regarding hours of operation and wagering limits would also be approved should the Board choose to adopt them. If the Board adopts a new cardroom ordinance, it can be sent to the Department of Justice for final approval.

This office would be happy to answer any questions that the Board may have.

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