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September 24, 2014

ESTABLISHED 1911

D. LOGAN GIFFIN
(1890-1980)

MONTGOMERY S. WINNING
(1892-1966)

C. TERRY LINDNER
(1903-1987)

ALFRED F. NEWKIRK
(1904-1980)

JAMES M. WINNING
(1921-2013)

Mr. Michael McCreery
United Counties Council of Illinois
217 East Adams Street, Suite 101
Springfield, IL 62701

RE: Poker Runs that Cross County Lines Updated in Light of Public Act 99-0405

Dear Mike:

Question:

There have been several questions regarding how poker runs that cross county lines should be handled. Specifically, the following questions have been asked: (1) can the primary location authorize the raffle and list all locations the poker run visits or would the licensee have to request a separate poker run license for each county where the run stops, and (2) do stops not within the licensing authority have to be listed on the application and license?

Does Public Act 99-0405 address any of the issues raised or identified herein?

Analysis:

Unfortunately, the language in some of the provisions of the Raffles and Poker Runs Act (the "Act") does not provide for clear answers to these questions. This opinion will point out a few of these provisions so that you may raise and discuss with your State's Attorney the best way for your county to manage any uncertainty.

The first sentence of section 2(c) of the Act¹ seems clear enough. That section states that "[p]oker runs shall be licensed by the governing body with jurisdiction over the key location." The "key location" is defined as the location where the poker run concludes and the prize or prizes are awarded.² Therefore, it seems clear that the governing body that has jurisdiction over

¹ 230 ILCS 15/2(c).

² 230 ILCS 15/1.

the location where the poker run concludes and the prize or prizes that are awarded is the same governing body that has the licensing authority for that poker run. As will be discussed below, this raises several possible issues.

The meaning of the second sentence of section 2(c) is less clear because that sentence seems to use “key location” synonymously with the phrase “governing body with jurisdiction over the key location.” Section 2(c) states “[t]he license granted by the key location shall cover the entire poker run, including locations other than the key location.” This sentence causes confusion for a couple of reasons.

First, if we substitute the Act’s definition of “key location” into that sentence where the legislature used the term “key location”, that sentence would read as follows: “[t]he license granted by the location where the poker run concludes and the prize or prizes are awarded shall cover the entire poker run, including locations other than the location where the poker run concludes and the prize or prizes are awarded.” This reading is untenable because the location where the poker run concludes and the prize or prizes are awarded, such as a bar, does not issue the poker run license. The governing body with jurisdiction over that location issues the license. While we have to interpret the statute as it is written, it is likely the legislature meant that sentence to read “[t]he license granted by the governing body with jurisdiction over the key location shall cover the entire poker run, including locations other than the key location.”

The second sentence of section 2(c) is also confusing because it says the license “shall cover the entire poker run, including locations other than the key location.” However, the fact of the matter is that poker runs often involve stops at locations in two or more counties. The definition of key location seems to contemplate that there will only be one key location. Thus, the question exists whether the license granted by the governing body with jurisdiction covers all stops in the poker run, including those in other counties, or whether it only covers all stops within the key location’s licensing authority’s jurisdiction.

The last sentence of section 2(c) states that “[e]ach license issued shall include the name and address of each predetermined location.” This sentence does not limit the requirement to predetermined locations within the jurisdiction of the governing body with jurisdiction over the key location. However, section 3(2)’s requirement that the application for license and the license to specify the area or areas within the licensing authority where the poker run will be conducted is limited to the locations within the licensing authority.³

Public Act 99-0405 makes four significant changes to the Act. First, the definition of a “poker run” has been revised to remove references to playing cards and instead references an event where participants “play a randomized game based on an element of chance.” The definition now specifically includes events where participants play a randomized game at each location. Second, Counties no longer have discretion to establish a system for licensing of

³ 230 ILCS 15/3(2).

organizations. Rather, “any” county, other than Cook, is required to establish a system for licensing. Third, poker runs, unlike raffles, may be issued a license for the purpose of maintaining the financial stability of the licensed organization. Fourth, the public act modifies the Act so that only raffles are required to be conducted under the supervision of a manager.

Conclusion:

As stated, the Act has somewhat conflicting provisions on the issue of whether the license and application are required to list all predetermined locations for the poker run or only those locations within the licensing authority’s jurisdiction. As previously indicated, section 2(c) of the Act states “[e]ach license issued shall include the name and address of each predetermined location.” However, section 3(2) states “[t]he license and application for license must specify the area or areas within the licensing authority in . . . a poker run will be conducted.” Because of these inconsistent provisions, it is best practice to require all stops of the poker run to be listed on the license and application.

It is less clear whether the key location’s governing authority can authorize all locations the poker run visits, no matter which county the locations are in, or whether the licensee must request a separate poker run license for each county where the run stops. In other words, does one license authorize a poker run to span as many counties as the organizer sees fit based on section 2(c), or does section 3(2) sufficiently limit the scope of the license to the jurisdiction of the licensing authority?

A plain reading of the statute would seem to indicate that the key location’s licensing authority could authorize a poker run and all stops, no matter the county. As stated, the statute states “[p]oker runs shall be licensed by the governing body with jurisdiction over the key location.” From this language, it appears the legislature contemplated that poker runs would have locations in multiple counties. The statute also states “[t]he license granted by the key location *shall cover the entire poker run, including locations other than the key location.*” “Shall cover the *entire* poker run” indicates the license would be good for all locations, no matter in which county. However, it is reasonable to interpret section 3(2)’s requirement that the application for license and the license to specify the area or areas within the licensing authority where the poker run will be conducted limits the licensing authority’s jurisdiction to those locations within the county.

As a practical matter, allowing counties to license activities that partially occur in other counties may cause potential problems. For example, under what authority would one county enter into another to enforce any license granted? For instance, if a poker run were to be licensed in County X and the poker run had planned stops in County Y but also stopped at a non-listed location, whose law enforcement would handle the matter? Would the Sheriff from County X come into County Y to enforce its license? Moreover, what if the license issued by the licensing authority over the key location listed poker run stops located in a county that has chosen not to enact a licensing scheme?

These are some of the concerns we have identified relating to the language of the Act and the issue of multi-county poker runs.

Finally, it should be noted that “[t]he governing bodies of 2 or more adjacent counties may, pursuant to a written contract, jointly establish a system for the licensing of organizations to operate poker runs within the corporate limits of such counties.”⁴

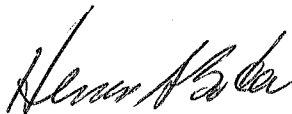
As a matter of best practice, it may be best to have applicants list all locations, regardless of their location within or outside the county, but note that their license may only be sufficient to cover the locations within the county they are applying, and suggest that they contact all counties involved so that they do not run afoul of differing county requirements.


Unfortunately, the changes in Public Act 99-0405 do not address the issues raised in the original opinion authored by this office. A copy of the original opinion along with a copy of Public Act 99-0405 is attached for your convenience.

Having identified these issues relating to this recently amended/new act and the issues it raises with respect multi-county poker runs, it may be best to seek legislative clarification, as well as legal guidance from your respective State’s Attorneys with respect to the questions that have been posed.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.


Herman G. Bodewes


Jason E. Brokaw

HGB/JEB:pa

S:/SharedCaseFiles/UNITEDCC-0601/Correspondence/OpRe Poker Runs that Cross County Lines 9-24-15

Disclaimer: This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State’s Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State’s Attorney.

⁴ 230 ILCS 5/2(a-5).

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July 30, 2014

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Conclusion:

As stated, the Act has somewhat conflicting provisions on the issue of whether the license and application are required to list all predetermined locations for the poker run or only those locations within the licensing authority’s jurisdiction. As previously indicated, section 2(c) of the Act states “[e]ach license issued shall include the name and address of each predetermined

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It is less clear whether the key location’s governing authority can authorize all locations the poker run visits, no matter which county the locations are in, or whether the licensee must request a separate poker run license for each county where the run stops. In other words, does one license authorize a poker run to span as many counties as the organizer sees fit based on section 2(c), or does section 3(2) sufficiently limit the scope of the license to the jurisdiction of the licensing authority?

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As a practical matter, allowing counties to license activities that partially occur in other counties may cause potential problems. For example, under what authority would one county enter into another to enforce any license granted? For instance, if a poker run were to be licensed in County X and the poker run had planned stops in County Y but also stopped at a non-listed location, whose law enforcement would handle the matter? Would the Sheriff from County X come into County Y to enforce its license? Moreover, what if the license issued by the licensing authority over the key location listed poker run stops located in a county that has chosen not to enact a licensing scheme?

These are some of the concerns we have identified relating to the language of the Act and the issue of multi-county poker runs.

Finally, it should be noted that “[t]he governing bodies of 2 or more adjacent counties may, pursuant to a written contract, jointly establish a system for the licensing of organizations to operate poker runs within the corporate limits of such counties.”⁴

As a matter of best practice, it may be best to have applicants list all locations, regardless of their location within or outside the county, but note that their license may only be sufficient to

⁴ 230 ILCS 5/2(a-5).

Mr. Mike McCreery

July 30, 2014

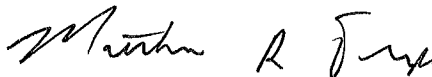
Page 4

cover the locations within the county they are applying, and suggest that they contact all counties involved so that they do not run afoul of differing county requirements.

Having identified these issues relating to this recently amended/new act and the issues it raises with respect multi-county poker runs, it may be best to seek legislative clarification, as well as legal guidance from your respective State's Attorneys with respect to the questions that have been posed.

Very Truly Yours,

GIFFIN, WINNING, COHEN
& BODEWES, P.C.



Matthew R. Trapp



Herman G. Bodewes

MRT/HGB/lrg

AN ACT concerning gaming.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Raffles and Poker Runs Act is amended by changing Sections 0.01, 1, 2, 5, and 6 as follows:

(230 ILCS 15/0.01) (from Ch. 85, par. 2300)

Sec. 0.01. Short title. This Act may be cited as the Raffles and Poker Runs Act.
(Source: P.A. 98-644, eff. 6-10-14.)

(230 ILCS 15/1) (from Ch. 85, par. 2301)

Sec. 1. Definitions. For the purposes of this Act the terms defined in this Section have the meanings given them.

"Net proceeds" means the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

"Key location" means the location where the poker run concludes and the prize or prizes are awarded.

"Poker run" means a prize-awarding an event organized by an organization licensed under this Act in which participants travel to multiple predetermined locations, including a key location, to play a randomized game based on an element of chance ~~drawing a playing card or equivalent item at each location, in order to assemble a facsimile of a poker hand or other numeric score.~~ "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item or playing a randomized game at each location.

"Raffle" means a form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

(1) the player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;

(2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(Source: P.A. 97-1150, eff. 1-25-13; 98-644, eff. 6-10-14.)

(230 ILCS 15/2) (from Ch. 85, par. 2302)

Sec. 2. Licensing.

(a) The governing body of any county or municipality within

this State may establish a system for the licensing of organizations to operate raffles. The governing bodies of a county and one or more municipalities may, pursuant to a written contract, jointly establish a system for the licensing of organizations to operate raffles within any area of contiguous territory not contained within the corporate limits of a municipality which is not a party to such contract. The governing bodies of two or more adjacent counties or two or more adjacent municipalities located within a county may, pursuant to a written contract, jointly establish a system for the licensing of organizations to operate raffles within the corporate limits of such counties or municipalities. The licensing authority may establish special categories of licenses and promulgate rules relating to the various categories. The licensing system shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold. The licensing system may include a fee for each license in an amount to be determined by the local governing body. Licenses issued pursuant to this Act shall be valid for one raffle or for a specified number of raffles to be conducted during a specified period not to exceed one year and may be suspended or revoked for any violation of this Act. A local governing body shall act on a license application within 30 days from the date of application. Nothing in this Act shall be construed to prohibit a county or municipality from adopting rules or ordinances for the operation of raffles that are more restrictive than provided for in this Act. The governing body of a municipality may authorize the sale of raffle chances only within the borders of the municipality. The governing body of the county may authorize the sale of raffle chances only in those areas which are both within the borders of the county and outside the borders of any municipality.

(a-5) The governing body of Cook County may and any other county within this State ~~shall~~ ~~may~~ establish a system for the licensing of organizations to operate poker runs. The governing bodies of 2 or more adjacent counties may, pursuant to a written contract, jointly establish a system for the licensing of organizations to operate poker runs within the corporate limits of such counties. The licensing authority may establish special categories of licenses and adopt rules relating to the various categories. The licensing system may include a fee not to exceed \$25 for each license. Licenses issued pursuant to this Act shall be valid for one poker run or for a specified number of poker runs to be conducted during a specified period not to exceed one year and may be suspended or revoked for any violation of this Act. A local governing body shall act on a license application within 30 days after the date of application.

(b) Raffle licenses ~~licenses~~ shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of 5 years immediately before making application for a raffle license and which have had during that entire 5-year ~~5-year~~ period a bona fide membership engaged in

carrying out their objects, or to a non-profit fundraising organization that the licensing authority determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. Poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational, veterans', or other bona fide not-for-profit organizations that operate without profit to their members and which have been in existence continuously for a period of 5 years immediately before making application for a poker run license and which have had during that entire 5-year period a bona fide membership engaged in carrying out their objects. Licenses for poker runs shall be issued for the following purposes: (i) providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster or (ii) to maintain the financial stability of the organization. A licensing authority may waive the 5-year requirement under this subsection (b) for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the 5-year requirement.

For purposes of this Act, the following definitions apply. Non-profit: An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation. Charitable: An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public. Educational: An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools. Religious: Any church, congregation, society, or organization founded for the purpose of religious worship. Fraternal: An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government. Veterans: An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit. Labor: An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations. Business: A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(c) Poker runs shall be licensed by the county governing

body with jurisdiction over the key location. The license granted by the key location shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each predetermined location.

(Source: P.A. 98-644, eff. 6-10-14.)

(230 ILCS 15/5) (from Ch. 85, par. 2305)

Sec. 5. Manager; bond. All operation of and the conduct of raffles ~~and poker runs~~ shall be under the supervision of a single manager designated by the organization. The manager shall give a fidelity bond in an amount determined by the licensing authority in favor of the organization conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than 30 days prior to its cancellation. The governing body of a local unit of government may waive this bond requirement by including a waiver provision in the license issued to an organization under this Act, provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. Nothing in this Section shall be deemed to apply to poker runs.

(Source: P.A. 98-644, eff. 6-10-14.)

(230 ILCS 15/6) (from Ch. 85, par. 2306)

Sec. 6. Records.

(a) Each organization licensed to conduct raffles and chances or poker run events shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(b) Gross receipts from the operation of raffles programs or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles and poker runs. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(c) Each organization licensed to conduct raffles or poker runs ~~or poker runs~~ shall report promptly after the conclusion of each raffle or poker runs ~~or poker run~~ to its membership. Each organization licensed to conduct raffles shall report promptly, ~~and~~ to the licensing local unit of government, its gross receipts, expenses and net proceeds from the raffle ~~raffles or poker runs~~, and the distribution of net proceeds itemized as required in this Section.

(d) Records required by this Section shall be preserved for 3 years, and organizations shall make available their records relating to operation of raffles or poker runs for public

inspection at reasonable times and places.
(Source: P.A. 98-644, eff. 6-10-14.)

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 8/19/2015