

Charity Poker Nights: What You Need to Know

07.28.15 | Linda J. Rosenthal, JD



Staff of a nonprofit are brainstorming possibilities for next year's fundraising gala. Someone mentions that a group down the road just held a successful Monte Carlo Night. "Sounds good," say staffers. They consider logistics: venue, food, entertainment, and overall costs. "Let's go for it," they agree. No so fast. If there's even a whiff of "gambling," then the government gets concerned and butts in. There are restrictions on gaming activities like this – even when run by a charity.

What's All the Fuss About?

Until recently, gambling was almost entirely unregulated in the State of California. That Wild West free-for-all was halted, though. A sweep of new laws includes many seemingly innocuous activities – raffles, silent auctions, bingo, and casino/poker nights, for example – that are popular with nonprofits and their supporters.

We've already explained in "[It's Just a Little Raffle: What's the Big Deal?](#)" what's allowed in the way of raffles and how they must be conducted in order to be legal.

As for "poker night" fundraisers, California "declares":

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Nonprofit organizations provide important and necessary services to the people of the State of California with respect to educational and social services

So far, so good. California also recognizes –

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...[t]here is a need to provide methods of fundraising to nonprofit organizations so as to enable them to meet their stated purposes [and the] playing of controlled games for the purpose of raising funds by nonprofit organizations is in the public interest.

Here's the catch, though: "Uniform *regulation* for the conduct of controlled games is in the best interests of nonprofit organizations and the people of this state." (emph. added)
Even when a respectable and legitimate nonprofit wants to occasionally hold a pleasant "night at the casino" fundraiser, there are limitations.

Poker Night Rules

"Notwithstanding any other provision of state law" (including anti-gambling criminal laws), "a nonprofit organization may conduct a fundraiser using controlled games as a funding mechanism to further [its] purposes and mission...."

The restrictions on poker-type events are less onerous than for bingo or raffles, but they are there, and must be observed.

Eligible Organizations

The rules about "charity poker nights apply to a broader swath of nonprofits than those ordinarily considered charities; that is, 501(c)(3) organizations and the California Revenue & Taxation Code equivalent, section 23701. The larger group of eligible nonprofits includes, for example: labor unions, fraternal orders and organizations, business leagues, social welfare organizations, social clubs, and veterans organizations.

But in order to be an approved sponsor, any such nonprofit must have been in existence and operated for at least 3 years.

An eligible organization is limited as well to just one such event per year. There's an exception for a nonprofit renting out its own facility (or donating the venue) to other nonprofits, but only "four times per any one calendar year," so long as the site is leased to four *different* groups.

Allowable Games

"Only controlled games as defined by California Penal Code section 337j(e)(1) may be played at these events." That statute in the criminal code identifies the games that are permitted in authorized, "charity poker nights." These "controlled games" include "poker, pai gow 'and any other game played with cards or tiles, or both, and approved by the Department of Justice' as well as

‘any game of chance’ played for something of value, unless such game is otherwise prohibited by statute or local ordinance.” There’s a list of such approved “controlled games” [here](#).

“What’s pai gow?” you ask. We didn’t know either. Pai gow is a Chinese game played with dominoes. The [Americanized version, called pai gow poker](#) or double-handed poker, is played with a deck of cards (52 and a joker) on a table set for 6 people and a dealer. Each player tries to beat the dealer. So, now you know.

What’s not allowed at all: slot machines. They’re defined in Penal Code sections 330(b) and 330.1, but anyone who has ever watched CSI or a tribal casino commercial will know what a slot machine is.

Revenue

Generally, “[a]t least 90 percent of the gross revenue from the fundraiser shall go directly to a nonprofit organization” and “[n]o more than 10% of the gross receipts of a fundraiser may be paid as compensation to the entity or persons conducting the fundraiser for the nonprofit organization.”

Prizes

“No cash prizes or wagers may be awarded to participants, however, the winner of each controlled game may be entitled to a prize from those donated to the fundraiser. An individual prize awarded to each winner shall not exceed a cash value of five hundred dollars (\$500). For each event, the total cash value of prizes award shall not exceed five thousand dollars (\$5,000).”

Registration, Fees, and Records

Any organization planning to hold a poker night must register with the California [Division of Gambling Control](#) – in advance, and at least once a year. If the application is approved, the nonprofit will [receive a certificate](#). If there are problems, the organization will be telephoned, so that deficiencies can be corrected.

There is an annual registration fee that can be as much as \$100.

An approved nonprofit must maintain detailed records.

Using Approved Suppliers

Nonprofits approved for “poker nights” must use [gambling equipment and service suppliers](#) which are registered with the Bureau of Gambling Control – or which will be registered before the fundraiser is held. The Bureau of Gambling Control “only registers suppliers that provide ‘controlled games’ to registered nonprofit organizations as a fundraising mechanism.”

There’s an exception for a nonprofit-host that doesn’t have to hire a supplier

because the equipment or services have been donated. The person or firm making this donation doesn't have to register with the Bureau of Gambling Control, nor do people "affiliated with the nonprofit organization" who own suitable equipment and donate it to the host-group.

Conclusion

Before scheduling this type of donor-favorite event, comply with all registration and operational rules. Check, as well, with local authorities – police or sheriff – for any additional permits, approvals, or restrictions.