



CITY OF SACRAMENTO

RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO

APR 23 8 51 AM '85

7

DEPARTMENT OF POLICE
HALL OF JUSTICE
813 - 6TH STREET

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5121

JOHN P. KEARNS
CHIEF OF POLICE

19 April 1985

Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: CHANGE IN CARDROOM ORDINANCE

SUMMARY

This is a proposal to have Section 5.3-11, Sacramento City Code, amended by adding subsection 12 to the existing 11 subsections. The added subsection will read:

"The only games permitted to be played in a cardroom are Draw Poker, Lo Ball and Panguingui (Pan). All other games not prohibited by the California Penal Code are prohibited by this section."

BACKGROUND

Traditionally, Draw Poker, Lo Ball and Panguini have been the only gambling card games allowed to be played in licensed cardrooms in the city. These are considered to be games of skill and therefore legal games. Recently, the domino type game, Pai Gow (Pai Cue) has been introduced into a number of cardrooms throughout the state, including Sacramento. There has also been repeated attempts to pass legislation to legalize various forms of Stud Poker. Stud Poker is prohibited by Section 330 Penal Code and is considered to be a game of chance and not a game of skill.

Penal Code Section 330 lists a number of illegal gambling games and states that all banking and percentage games are also illegal. By our interpretation and that of the Attorney General in an informal opinion, Pai Gow is both a banking and percentage game. There is now in progress an appeal of a Los Angeles County Superior Court decision that said Pai Gow is not a banking game. This goes to show the confusion that exists in this state over the interpretations of gambling statutes.

19 April 1985

Since we have the local option to control what form of gambling, if any, we sanction, a clear and concise ordinance is needed in order to spell out what gambling games are acceptable in our community. By listing the games that are legal, there will be no more confusion. This will also prevent cardroom operators from making slight changes in the rules of illegal games in order to try and qualify them as legal games. When this happens, a great deal of time is consumed while legal opinions are made. During this time the often illegal games are allowed to flourish.

The police department will be hard pressed to control all of the different games that could be played in cardrooms unless it is clearly stated what games may be played. Without this change in the ordinance, it will be necessary to inspect all of the games and the variations in order to try and determine if they are legal. When illegal games are located, the time and effort to build prosecutable cases could be more than we can afford.

It is obvious that there is a move to loosen up the gambling laws in the state. Each time we surrender to the gambling interests and allow another game to be played, we are one step closer to total legalized gambling.

The introduction of Pai Gow into our cardrooms brought about this request. With the confusion created by unclear statutes and conflicting court decisions, the police have a difficult time understanding what is legal and what is not. This ordinance will clear up the confusion and make it easier for us to control the activities in the cardrooms. The attached informal and unsigned opinion from the Attorney General will help to show what we face.

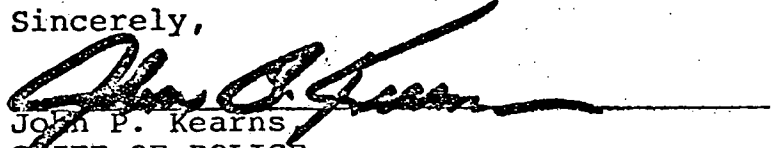
FINANCIAL DATA

The implementation of this ordinance will create no new costs to the city. Without the ordinance change it will cost more for the police to investigate for illegal games.

RECOMMENDATION

The police department strongly urges the change in the ordinance. We need to control what forms of gambling we will allow in our city and not follow other communities. I submit that the listed gambling games be the only ones allowed in our community.

Sincerely,


JOHN P. KEARNS
CHIEF OF POLICE

Attachments

JPK:al
REF: 4-80

PAI GOW - Much debate has recently occurred regarding whether Pai Gow, an ancient Asian tile game, played with dominos, is legal in California. The game, which may be played with up to eight individuals, utilizes 32 dominos that may be arranged in a series of rankings. Each player is dealt four dominos or tiles, selects two with the highest ranking combination and discards the remaining two. Bets are placed and the player or players with the highest ranking wins.

It is the Attorney General's position that Asian or Chinese Pai Gow as it is frequently called, when played as a banking or percentage game, is prohibited by Section 330 of the California Penal Code. If not played as a banking or percentage game and not prohibited by local ordinance, the game is allowed.

Banking - Section 330 of the Penal Code prohibits the playing of any banking game. In People v. Carroll, (1889) 22 P 129, the court defined banking as: "A game conducted by one or more persons where there is a fund of money offered and against which everyone has a right to bet. The fund is ready to be staked on all bets others may choose to make against the banker; the banker is responsible for payment of all funds, taking in all that is won and paying out all that is lost; the fund is called the bank and a person who conducts the game is called the banker."

Typically, the house or gaming establishment has functioned as the bank although case law indicates that rotation of the bank among the players does not eliminate the prohibition against any game involving banking. In People v. Sam Lung (1886) 70 Cal. 1515, 1516-1517, the court noted that Section 330 of the Penal Code is intended to embrace all persons who carry on or conduct such games, whether as owners, employees, or in any other capacity. Further, in In re Lowrie (1919) 43 Cal.App. 564, 566-567, citing Shaw v. State, 35 Tex Cr. Rep. 394 [33 SW 1078], the court held where a person stood beside the table, took the bets, and was "one against the many," he was the dealer of the game and, therefore, the game was a banking game.

Percentage - Section 330 of the Penal Code prohibits the playing of any percentage game. The term "percentage" relates to the house or card club having an interest in the outcome of the specific game. In People vs. Ambrose, (1953) 122 Cal.App 2b Supp. 966, 967-970, two elements of a "percentage game" are identified. If the club is either taking a fixed amount of a player's winnings or is collecting only if there is a winner, the club has an interest in the outcome of the game.

On September 15, 1984, the Huntington Park Casino in Huntington Park initiated the playing of Pai Gow. On October 1, 1984, the game was shut down through the efforts of the Huntington Park Police Department, the Los Angeles Sheriff's Office and the Department of Justice. The game was closed on the basis of it being a banking game prohibited by Section 330 of the Penal Code.

The Huntington Park Casino then filed a civil suit to obtain a restraining order against the enforcement of Section 330 as it relates to the playing of Chinese Pai Gow. On January 16, 1985, a Los Angeles County Superior Court judge issued a temporary restraining order against the Huntington Park Police Department and the Los Angeles County Sheriff's Office stating that Pai Gow was not a banking game and, therefore, not prohibited.

On February 20, 1985, the Los Angeles County Counsel filed a writ attempting to get the temporary restraining order set aside. It is anticipated that the Appeals Court will decide whether to hear the matter within a week.

Following the issuance of the temporary restraining order, several card clubs throughout the state initiated the playing of Chinese Pai Gow, including clubs in Sacramento, Emeryville and Los Angeles County. The Attorney General's Office began contacting local agencies where the Pai Gow games were being reported and advising those agencies that the games were prohibited and the clubs should be noticed to cease and desist the playing of Chinese Pai Gow.

Last week, additional card clubs in Los Angeles County filed a civil suit to obtain a temporary restraining order against the enforcement of local ordinances that prohibit side betting. It is expected that the latest suit will be consolidated with the initial suit. Further, it is anticipated the requested temporary restraining order will be denied in that side betting is generally considered to be a form of bookmaking and prohibited.

Card clubs considering the initiation of any form of Pai Gow that includes either banking or percentage functions should be advised that the game is prohibited pursuant to Section 330 PC.

TEXAS HOLD-EM - It is the Attorney General's position that Hold-Em is a form of Stud Poker and prohibited by Section 330 of the Penal Code. The name typically refers to Five or Seven Card Hold-Em which is a speeded up version of a poker game called Omaha. Omaha is a cross between Cincinnati and Seven Card Stud.

In Seven Card Hold-Em each player is dealt two face-down cards followed by a round of betting; three cards are then dealt face-up in the center for another betting round. Then, two cards are dealt singly, each followed by a betting round. There are only four betting rounds in Seven Card Hold-Em. The center group of cards is common to every hand as are the last two cards. Five Card Hold-Em is played by dealing the first card face-down and the next four face-up.

As is the case with the previously mentioned Asian tile game of Pai Gow, the Huntington Park Casino is attempting to get a judge to preliminarily determine whether Hold-Em poker can legally be played in the Huntington Park Casino. At this time, a restraining order has not been issued. It is the position of the Attorney General's Office that Hold-Em Poker is a form of Stud Poker and prohibited by the Penal Code.

Questions regarding any of the above should be directed to Gaming Registration Program, James Watson, Manager, (916) 739-5740, or write to Gaming Registration Program at P.O. Box 13327, Sacramento, CA 95813.

ACTIVE CARD ROOMS

2/1/85

BILLS'S PLACE

07220-00 654A

3617 Rio Linda Bl.

Wilborn, Viola

Wilborn, J.D.

(916) 925-9784

DUFFY'S

08073-00 654A

1944 El Camino Av.

Hurchings, Douglas

(916) 925-9777

ESQUIRE

31728-00 654A

800 El Camino Av.

Lefever, Walter C.

(916) 929-0821

GEORGIANS

08510-00 654A

1901 J Street

Carnick, Georgian

(916) 442-2987

J & J CLUB

14794-00 654A

3726 Stockton Bl.

Hamilton, Leroy

(916) 457-6992

MITCH'S CARDROOM

09913-00 654A

3525 Rio Linda Bl.

Mitchell, John D.

(916) 362-8745

ACTIVE CARD ROOMS PAGE #2

SOUTH BOWL

06806-00 654A

5005 Stockton Bl.
McGlone, Robert F.
Brown, Ted
(916) 456-1416

SUNDOWN

07157-00 654A

2217 Del Paso Bl.
Beirle, Lucy
(916) 927-2481

THE LIMELIGHT

09147-00 654A

1014 Alhambra Bl.
Milton, Lee Wait
(916) 447-4318

THE ROUNDERS

14512-00 654A

1911 El Camino Av.
Catricala, Robert
(916) 921-5422

THE SILVER FOX

11216-00 654A

5350 Fruitridge Rd.
Dong, James
(916) 456-2424

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING SECTION 5.3-11
OF THE SACRAMENTO CITY CODE, RELATING
TO CARDROOM REGULATIONS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

Section 1.

Section 5.3-11 of the Sacramento City Code is hereby amended to read as follows:

Sec. 5.3-11 Cardroom regulations.

Except as hereinafter provided, no person shall operate a cardroom in violation of any of the following regulations:

1. No person shall be permitted to hold or be interested in more than one cardroom license issued by the city.
2. Not more than fifteen card tables shall be permitted in any cardroom.
3. Not more than one cardroom shall be located at any one address.
4. Not more than eight players shall be permitted to a table.
5. Cardrooms shall be located on the ground floor.
6. Card tables shall be not over twenty-eight inches from the floor and either round, seven-sided or eight-sided.
7. No minor shall be permitted at any card table or participate in any game played thereat, nor shall any card table be exposed to viewing from other areas of the premises which are open to and frequented by minors.
8. All cardrooms shall be open to police inspection during all hours of operation.

9. It shall be unlawful for the owner, operator or his employees or agents to allow any cardroom to remain open between the hours of 6:00 a.m. Sundays and 10:00 a.m. Mondays.
10. Each cardroom licensee or licensees shall post in a conspicuous place on the premises a copy of the house rules and regulations and give notice that all persons will be required to comply with them.
11. Each cardroom shall be separated from other activities on the premises.
12. The only games permitted to be played in a cardroom are Draw Poker, LoBall and Panguingui ("Pan"). All other games not prohibited by the California Penal Code are prohibited by this section.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

City Clerk