



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 29, 1992

Honorable Bill Turner
Brazos County District Attorney
300 East 26th Street, Suite 310
Brazos County Courthouse
Bryan, Texas 77803

Letter Opinion No. 92-18

Re: The legality of casino night events at
Texas A&M University (RQ-316)

Dear Mr. Turner:

You ask about the legality of a proposed "casino night" event sponsored by the Texas A&M Residence Hall Association. You say that participants would pay a five dollar admission fee and thereby be entitled to receive \$3,000 worth of "Aggie" money with which they could play blackjack, poker and other "casino games." All participants having paid the five dollar admission fee would automatically be entered in a drawing for prizes donated by local merchants, and in addition could use "Aggie" money winnings to purchase additional chances to win such prizes.

This office has recently determined that a similar "casino night" scheme would violate the Penal Code prohibition on betting "unless, as a matter of fact, the 'casino games' in question fall within a 'carnival contests' exception to the definition of 'bet' in the Penal Code section 47.01(1)(C) and (D)." Attorney General Opinion DM-112 (1992). The "casino night" addressed in Attorney General Opinion DM-112 differed from the "casino night" you ask about in that there a participant could purchase prizes with his winnings while here such winnings could be used to purchase tickets for a drawing for prizes. In our opinion, however, the Penal Code ban, in sections 47.01(1) and 47.02, noted in Attorney General Opinion DM-112, on betting "for money or other thing of value," would generally prohibit the activities you ask about as well, unless they as a factual matter, fall within the "carnival contest" exception: betting in the casino games could increase one's opportunity to purchase, with one's "Aggie" money winnings, more tickets for the drawing of prizes and thus would still constitute betting on a "thing of value" within the meaning of the Penal Code provisions.

Lastly, we note that neither your request letter, nor the letters attached thereto from the persons at Texas A&M involved in the proposed "casino night,"

supply facts indicating that the "private place" defense to the offense of "gambling" might apply in this situation. See Penal Code § 47.02(b)(1). Significantly, "private place" is defined in section 47.01(7) to exclude, *inter alia*, "schools." Whether the "private place" defense might apply with respect to the activities you ask about would involve questions of fact we cannot resolve. See Attorney General Opinion H-489 (1975) (whether the quarters of clubs or other organizations are "private places" for purposes of the gambling laws depends on whether the public in fact does not have access).

S U M M A R Y

The described "casino night" activities would violate the Penal Code section 47.02 prohibition on gambling -- "making bets" -- unless as a matter of fact the activities in question fall within the "carnival contests" exception to the definition of "bet" in Penal Code sections 47.01(C) and (D). Whether the "private place" defense to prosecution for such activities would be available would also involve questions of fact.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee