



Grapevine



Gambling Anyone ??

The Colorado Constitution prohibits all forms of gambling unless specifically allowed by law (i.e. casino gaming, bingo, raffles, horse and dog racing, lottery). Because poker tournaments in bars or other locations outside the three gaming towns are not specifically authorized by law, this activity would fall under the general gambling provisions of the Colorado Revised Statutes (CRS) under Title 18.

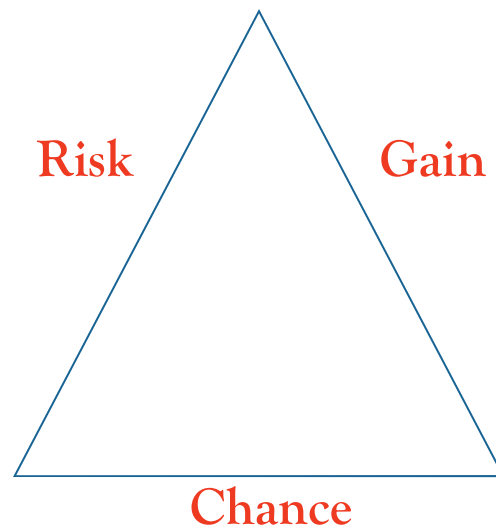
The General Assembly has set forth the purpose of the gambling statute as well as the guidelines for statutory construction in CRS 18-10-101:

1) It is declared to be the policy of the general assembly, recognizing the close relationship between professional gambling and other organized crime, to restrain all persons from seeking profit from gambling activities in this state; to restrain all persons from patronizing such activities when conducted for the profit of any person; to safeguard the public against the evils induced by common gamblers and common gambling houses; and at the same time to preserve the freedom of the press and to avoid restricting participation by individuals in sport and social pastimes which are not for profit, do not affect the public, and do not breach the peace.

2) All the provisions of this article shall be liberally construed to achieve these ends and administered and enforced with a view to carrying out the declaration of policy stated in subsection (1) of this section. 18-10-102(2), C.R.S., defines Gambling as:

“Gambling” means risking any money, credit, deposit, or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include.

- (a) Bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entrants;
- (b) Bona fide business transactions which are valid under the laws of contracts;
- (c) Other acts or transactions now or hereafter expressly authorized by law;
- (d) Any game, wager, or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling;
- (e) Repealed.
- (f) Any use of or transaction involving a crane game as that term is defined in section 12-47.1-103(5.5).



One of the ways to look at this, is to picture a triangle, on one side you have risk, on the other side you have gain, and the last side you have chance. What to consider is whether all three of the sides are present, because by eliminating any one of them, the activity would not meet the definition of “gambling” as set forth in 18-10-102(2), C.R.S.

If, however, it’s determined that all three sides are present it is therefore “gambling.” The next consideration is whether the gambling is allowed under one of the exceptions to the general gambling prohibition contained in 18-10-102(2)(a) through (f) on the previous page.

The most common is (d) Any game, wager, or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling.

So can licensees have SOCIAL GAMBLING on their licensed premises? Yes, if three elements are present: (1) the game must be incidental to a BONA FIDE social relationship; (2) must be participated in only by natural persons; (3) and no person can participate, directly or indirectly, in professional gambling. This means that no one other than the players can profit from the gambling activity in any manner. Section 18-10-102(1), C.R.S., defines "profit" as any “realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management, or unequal advantage in a series of transactions.”

Bottom line, card games on a liquor licensed premises may be gambling and therefore prohibited except when participants hold a bona fide social relationship. The critical inquiry for the bona fide social relationship is whether the participants came together for any shared purpose other than gambling.

I will leave you with a couple of ways people have tried to fudge the bona fide social relationship:

1. Sitting at the poker table and everyone introduces themselves- NOT a bona fide social relationship.
2. I have been told we can’t play poker until we all go off the licensed premises shake hands- NOT a bona fide social relationship.

Licensees keep in mind it’s your liquor license and if you allow gambling to occur on the licensed premises, it is your responsibility to ensure it not professional gambling.

Article provided by State of Colorado, Dept. of Revenue, Liquor Enforcement Div., Officer Brian Turner, who may be contacted at 970.248.7133

Hookah Bars

The smoking of a Hookah is a cultural experience that has its roots in the Middle East. In recent years, its popularity has grown in the United States, mostly among young people. Smoking in a Hookah Bar is a very social event, much like the over twenty-one crowd gathering at a bar that serves alcohol, in that it is a place that groups of people can meet, kickback, relax and socialize. This makes the Hookah bars very attractive to the eighteen-twenty crowd and even to those under the age of eighteen. It is important to understand however, that the flavored tobacco served, known as shisha, is in fact tobacco and therefore subject to the Colorado tobacco laws that restrict the sale, gifting, or giving of tobacco products to a person under the age of eighteen. Violation of these laws may result in criminal and/or administrative prosecution.

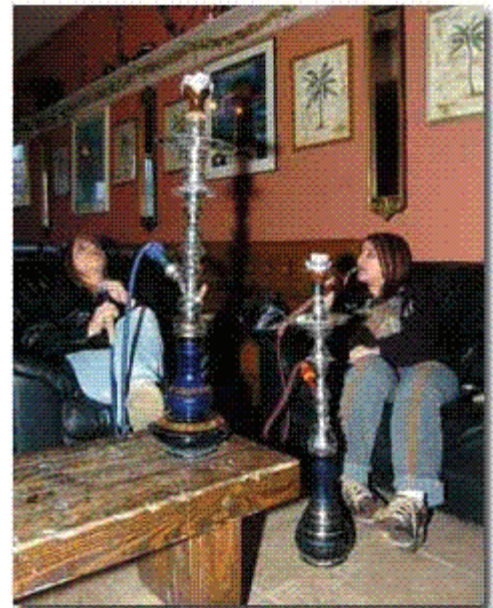
What is a Hookah? A Hookah is a water pipe that is used to smoke shisha. The pipe may have one hose or several hoses attached to the base of the pipe and that base is usually filled with liquid, most often water. The shisha is packed into a bowl at the top of the pipe and heated, usually with a charcoal disk. When a smoker inhales through the hose, the smoke is drawn down through the water, which cools the smoke and, in theory, makes it less harsh to inhale. The shisha comes in many flavors and can be mixed much like drinks are mixed in a traditional bar.

There are a lot of “myths” that indicate that smoking a hookah is more healthy than smoking a cigarette but many studies dispute this myth. Either way, studies have shown, the smoker is taking smoke into the lungs and inhaling carcinogens. In addition, studies have shown that smoking one cigarette takes between five and ten minutes to complete but when smoking a Hookah, it can take up to sixty minutes to complete a session, therefore exposing the smoker to much more smoke volume than if just a single cigarette was smoked.

If you are asking yourself why Hookah bars can continue to open and operate given the Colorado Clean Indoor Air Act (CCIAA), the answer is that Hookah bars are considered a “retail tobacco business” and therefore not subject to the CCIAA.

If you have any questions or concerns, please contact your local Tobacco Enforcement Investigator at 970-248-7519 or the Main Headquarters at 303-205-2300.

Article provided by State of Colorado, Dept. of Revenue, Liquor Enforcement Div., Officer Brian Turner



Sheri L. Thompson



WARNING—

It is illegal for any person under 18 years of age to purchase or attempt to purchase cigarettes or tobacco products and, upon conviction, a \$100.00 fine may be imposed.



Delivery of Alcohol Beverages

We have received several calls recently regarding the delivery of Alcohol Beverages. Below is the applicable regulation from the Colorado Liquor and Beer Code. If you have any questions regarding any of this, please contact us.

Regulation 47-426 states:

- A. Delivery Prohibited—No retail liquor licensee, licensed to sell malt, vinous, and spirituous liquor for off-premises consumption or fermented malt beverages for on and off premises consumption, shall conduct a delivery only business, or permit the delivery of such alcohol beverages beyond the customary parking area for the customers of the retail outlet except as permitted in B (1) of this regulation.
- B. Delivery Permitted—A retail liquor licensee, licensed to sell malt, vinous, and spirituous liquor, for off-premises consumption or fermented malt beverages for on and off premises consumption, may deliver such alcohol beverages to any location off the licensed premises, pursuant to the following restrictions: 1. The order for the alcohol beverages which are to be delivered, must be taken by the licensee or an ordering service acting as an agent of the licensee pursuant to a written agreement entered into with the licensee. Licensee shall provide a copy of said agreement to the liquor enforcement division prior to any orders being accepted by licensee's agent. The order may be taken by written order, by telephone, in person, or via internet communication with the licensee or its agent. The person placing the order must provide the licensee with their name, address, date of birth and a valid form of identification, including the identification number. Under no circumstances shall a person under 21 years of age be permitted to place an order for alcohol beverages. 2. Delivery of alcohol beverages shall only be made to a person 21 years of age or older at the address specified in the order. Delivery must be made by the licensee, an employee of the licensee, or a delivery service acting as an agent of the licensee pursuant to a written agreement entered into with the licensee. A copy of said agreement shall be maintained by the licensee. The licensee or his employee, or a representative of a delivery service who delivers the alcohol beverages shall note and log, at the time of delivery; the name, address, date of birth and the valid form of identification, including the identification number, of the person the alcohol beverages are delivered to. Under no circumstances shall a person under 21 years of age be permitted to receive a delivery of alcohol beverages. 3. Licensees who deliver alcohol beverages shall maintain as part of their required records, pursuant to 12-47-701 C.R.S. all records of delivery including: delivery agreements, delivery orders, receipt logs and journals. These records shall be maintained by the licensee for the current and three prior calendar years. Failure to maintain accurate or complete records shall be a violation of this regulation.
- C. Suspension/revocation—Any delivery made in violation of title 12, articles 46 and 47, or in violation of this regulation may be grounds for suspension or revocation by the state licensing authority as provided for in section 12-47-601. C.R.S.



Numbers

City Clerk's Office
244-1510

Division of Liquor Enforcement
(303) 205-2300

Local State Liquor Enforcement
Investigators

Brian Turner, Brian Dyet, and
Shanna Frank
(970) 248-7133

City of Grand Junction Liquor
Enforcement

PST Lisa Maestas
(970) 244-3612

City Sales Tax
(970) 244-1521

Congratulations!! Fisher's Liquor Barn and Cottonwood Liquors for participating in project "Sticker Shock" with Mesa County Underage Drinking Prevention Task Force/law enforcement/MSJ students in their stores on April 8, 2010. This was a community based awareness project. Stickers were designed and placed on multi-packs of alcoholic beverages and/or paper bags used at liquor stores. This is to raise awareness among adults who may be interested in providing alcohol to their underage peers. Both liquor stores should be highlighted for their participation in the program, as without local support, the program could not be implemented.

2010 "FREE" Training Schedule

The City of Grand Junction along with the Police Department offers a fun and informative method of educating anyone who dispenses alcohol and how they can protect themselves and the establishment. The dates (subject to change) for 2010 are:

Monday, June 21, 2010, 1 p.m. to 5 p.m.

Thursday, August 19, 2010, 5 p.m. to 9 p.m.

Monday, October 11, 2010, 9 a.m. to 1 p.m.

Thursday, December 9, 2010, 1 p.m. to 5 p.m.

This training will be in the City Hall Auditorium, 250 N. 5th Street.

Flyers will be sent out approximately a month in advance, but you can register anytime by calling 244-1510 or emailing juanitap@gjcity.org.

How current is your *State of Colorado Department of Revenue Colorado Beer, Liquor, Special Event Codes and Code of Regulations Book*? This should be updated each year and the easiest way is to download from the website: www.revenue.state.co.us then click on Liquor Enforcement Information, Laws and Rules, Liquor, and at the bottom of the page click on Codebook which is a pdf. file. Print it or call 303.370.2165 to purchase additional code books.

Newsletter prepared by:
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