



DIVISION OF GAMBLING CONTROL

BILL LOCKYER
Attorney General

HARLAN GOODSON
Director

April 18, 2003

LAW ENFORCEMENT ADVISORY

NUMBER 5

“GAME STAKING”

The Division of Gambling Control (Division) has become aware that some gambling establishments are allowing owners, partners, and/or employees of the gambling establishment to participate in the play of gaming activities, as players, using funds drawn of the gambling establishment. Gaming activities encompasses any controlled game, or promotional scheme which is appended to, referenced, or relies upon any controlled game.¹ This activity constitutes participation in the game and an interest in its outcome, which are traits of a banking game.²

The practice of playing in any encompassing gaming activity conducted in the gambling establishment by an owner, partner, and/or employee with the gambling

establishment funds constitutes a “banking” game, prohibited under Penal Code section 330.³

The gambling establishment cannot stake any game or gaming activity attached to a controlled game, through the owners, partners, and/or employees, nor expense the losses, or credit the winnings to the gambling establishment.

The participation of owners, partners, and/or employees in any encompassing gaming activity is not prohibited provided the owner, partner and/or employee uses their own money, and no part of the gambling establishment’s funds.

¹ Penal Code section 337a, subdiv. (3) in relevant parts states, “Every person, ... “Who, whether for gain, hire, reward, or gratuitously, or otherwise, receives, holds, or forwards, or purports or pretends to receive, hold, or forward, in any manner whatsoever, any money, thing or consideration of value, or the equivalent or memorandum thereof, staked, pledged, bet or wagered, or to be staked, pledged, bet or wagered, or offered for the purpose of being staked, pledged, bet or wagered, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man or beast, or between men, beasts, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever.”

² *Sullivan v. Fox* (1987) 189 Cal.App.3d, in relevant part states, “In any event, the house derives benefit from commercial gambling, the elimination of which is the legitimate objectives of statutes such as section 330.”

³ Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of those prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

For more information regarding this advisory, contact the California Department of Justice, Division of Gambling Control, at (916) 263-3408.