

June 2006

**RULES OF THE ROAD FOR
CHARITABLE FESTIVALS IN OHIO**

In 1976, voters passed a constitutional amendment permitting charitable gaming in Ohio. Since then, charitable organizations have been permitted to conduct games of chance at festivals. However, the exploding popularity of poker tournaments has caused law enforcement officials to take a closer look at what constitutes a festival under Ohio law.

Under Ohio law charitable organizations are permitted to conduct games of chance providing they comply with the following requirements:

1. The games of chance are not craps for money or roulette for money.
2. The charitable organization meets the definition of a charitable organization contained in ORC Section 2915.01.
3. The charitable organization is and has received from the internal revenue service a determination letter that is currently in effect stating that the organization is tax exempt from federal taxation under subsection 501(c)(3) of the Internal Revenue Code.
4. The games of chance are conducted at festivals of the charitable organization which are conducted for a period of 4 days or less, and not more than twice a year or for a period of 5 days or more, not more than once per year.
5. The festival must be held on premises owned by the charitable organization for a period of no less than one (1) year preceding the conducting of the games of chance; on premises leased from a governmental unit; or on premises that are leased from a veteran's or fraternal organization and have been owned by the veteran's or fraternal organization for a period of 1 year immediately preceding the conducting of the games of chance. However, a veteran's or fraternal organization cannot lease its premises to a charitable organization for a festival if it has already leased the premises 4 times during the preceding year to charitable organizations for that purpose.
6. All of the money or assets received from the games of chance after the deduction only of prizes paid out must be donated or transferred to an organization which is a governmental unit that is tax exempt under subsection 501(c)(3) of the Internal Revenue Code.
7. The games of chance cannot be conducted during or within ten hours of a bingo game conducted for amusement purposes only.
8. No person can receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any games of chance.

Since a license is not required to operate games of chance, as a practical matter the enforcement of Ohio's laws with respect to festivals lies primarily with local law enforcement authorities. However, due to the recent national popularity of poker, Texas Hold-Em poker tournaments are being advertised and conducted all around the state of Ohio, most under the guise of a charitable festival. As a result of the proliferation of these poker tournaments (many in clear violation of the law), the Ohio Attorney General's Office Charitable Law Section promulgated Policy 201. Policy 201 sets forth guidelines for conducting games of chance at festivals and can be found at http://www.ag.state.oh.us/press/05/03/050307_games_chance_policy.pdf (Jerrold, please put link and call "Policy 201") While not legally binding and not equivalent to an official attorney general's opinion, local law enforcement officials are using the guidelines set forth in Policy 201 as a basis for determining the legality of the festivals being conducted in their respective jurisdictions. By way of example, in Policy 201 the Ohio attorney general's office has taken the position that in order to be considered a festival, the charitable organization must offer two activities in addition to conducting the games of chance and serving refreshments. It remains to be seen as to whether the guidelines set forth in the policy will be challenged.

In conclusion, when engaging in charitable gaming activities, carefully review your qualification as a charitable organization, make sure there are no additional policies or procedures which have been promulgated by the Ohio attorney general's office and, to be completely safe, give local law enforcement agencies a briefing on the proposed event.