

Calling Lewis bluff, poker parlors expanding

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Angel Martinez flipped over his cards and grinned across the green-felt table at Wes Sickler, who had just lost a pot of about \$100 in no-limit Texas Hold'em.

"That was beautiful. I love my hand," Martinez chortled. "Hey, man, what happened to your chip pile?"

It was a casinolike moment, but the betting action didn't take place in one of Arizona's two dozen Indian gaming establishments, where bets and raises are restricted to a maximum of a few dollars.

Rather, Martinez and Sickler were playing in a strip-mall card room on Greenway Road in Phoenix.

Parlors like this one, known as Poker Nation USA, are proliferating across Arizona amid confusion about the legal status of a game that has emerged as one of America's favored pastimes.

At the heart of the issue is whether poker is a game of skill or a game of chance.

Arizona allows social gambling where only players make money. However, it bans others from promoting or profiting from games of chance, except on Indian reservations.

Card-room proponents say poker is a game of skill and therefore not subject to criminal statutes.

Arizona's Department of Gaming views the private card rooms as unlawful and has launched investigations into them.

The Arizona Attorney General's Office, however, has declined to prosecute, saying it does not have the resources and does not see a reasonable likelihood of conviction.

The result is a helter-skelter system where club operators and their clients are betting that they won't get busted.

Meanwhile, some Native American tribes view the poker rooms as a threat to their casinos. At least one Indian nation sued to shut down a club.

Legal gray area

The Gaming Department estimates that there are 30 cash-based card rooms statewide where players buy chips and wager on a variety of poker games. And the number is growing.

Scores of bars and other businesses statewide conduct poker tournaments where winners are awarded gifts rather than cash and where the establishment does not profit. State Gaming officials do not consider those games unlawful.

However, officials contend that card-room businesses violate the law because the house either takes a "rake" from each pot or requires players to pay an occasional fee to the establishment. In addition, dealers profit from tips, and some parlors charge membership fees.

Police in Scottsdale raided a club late last year in what turned out to be a misdemeanor case. About the same time, Gaming Department agents in Tucson served search warrants on owners of a card parlor, but the Pima County Attorney's Office has not filed criminal charges.

The Gaming Department confirmed in an e-mailed statement that no card-room operator in Arizona has been convicted of gambling-law violations in the past few years. The agency also said there is no proposed legislation to resolve the conflicting interpretations.

Harold Lee, a former justice of the peace in Phoenix who lives in Cochise County, operates a Web site promoting poker as a positive American enterprise.

Before opening poker rooms in Bisbee and Sierra Vista, Lee wrote letters to prosecutors insisting that his businesses were legal and demanding that they show him any law to the contrary. He got no response.

The Gaming Department, meanwhile, investigated Lee's club in Sierra Vista twice and submitted criminal referrals to Attorney General Terry Goddard, who declined to initiate a case.

Lee defends poker as a sport, a business and a profession.

"I want 'em to arrest me," he said. "No prosecutor who looks at this wants to touch poker, because they can't win the argument."

Scottsdale City Prosecutor Caron Close may test that theory. She filed a misdemeanor case in November against the operator and dealers at a club known as Deal Me In.

"They violated the law," she said, noting that police investigated after neighboring businesses complained.

The owner, Mark Andreani, declined to comment. He and his employees are charged with possessing gambling devices and benefiting from gambling.

Andreani's attorney, Bud Moore, said detectives found no evidence of cheating or collusion at the club.

"I can't imagine a jury convicting these guys of anything," Moore said. "Poker is a game of skill, not chance. . . . Why they were charged is beyond me."

Indian complaints

It is unclear whether neighborhood card rooms siphon customers and cash away from Indian casinos, which operate under a state compact sanctioned by Arizona voters.

Sheila Moraga, executive director for the Arizona Indian Gaming Association, said Native American tribes are losing customers because some poker players are attracted to no-limit games, which are not allowed under gaming compacts.

But Moraga offered no numbers, and the Department of Gaming has no data on the issue.

In Tucson last year, the Pascua Yaqui Tribe filed a lawsuit asking a Pima County Superior Court judge to shut down the Club Royale card room. The civil complaint named owners Donna M. and Johnny Ray Rogers, with Lee as a co-defendant because the parlor was one of his franchisees.

In court, the Yaquis argued that gambling is a felony except on sanctioned Indian reservations.

"Since Club Royale opened," the complaint said, "the tribe's poker room has lost business."

Luis Ochoa, a lawyer for the Yaquis, said other Arizona tribes were "lining up to take their own shots" at private clubs.

But the owners agreed to close their business rather than face mounting legal fees, and the case was dropped.

Turning a blind eye

At Poker Nation USA, customers pay \$20 for a yearlong membership.

Owner Christine Korza said she opens the door at 7 p.m. Games often continue through dawn.

At 11 p.m. on a recent Wednesday, there were 16 players at two tables, vying for pots that topped out at about \$400. Korza said she's never had any violence and compares her club to a bowling league that offers cash prizes.

While the law may be fuzzy, she said, enforcement agencies were advised last year exactly how she intended to do business, and none objected.

"I haven't heard a thing," Korza said. "If they arrest me, they should be charged as accessories."

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Nick Oza/The Arizona Republic

A dealer shuffles the cards at one of Harold Lee's poker parlors, which operate in the SHORE area.

