

MARC DUNBAR • What's going on with our government

GAMBLING ADVICE: DON'T BE A FELON IN 2011!

Many of us have made and broken our New Year's resolutions, but it's not too late to adopt one and stick by it, which I promise is worthy of consideration. Let's all resolve not to be a felon in 2011! Seems simple enough but many passionate poker players regularly flirt with provisions of state penal codes that could land them in the clink for some time. The operative provision worth knowing about involves operating a gambling house.



Gambling houses and criminal statutes prohibiting their operation have been in existence since before the United States was founded. In England, gambling was condoned provided it was kept to the landed gentry in private parlors and away from the general public.

When bars and taverns began allowing gambling for the common rabble, the King and his Lords found that such activity affected the overall public welfare by leading to street violence and the even greater sin of workplace absence. As such, public facilities that regularly allowed public gambling of any kind were dealt with harshly.

Often gamblers were given little or no sanction but the proprietors risked the loss of their establishment, livelihood and freedom.

I'm sure you're wondering why this is relevant to the regular poker player in 2011. A quick look at the 125-year-old penal provision may give a little guidance.

Whoever by herself or himself, her or his servant, clerk or agent, or in any other manner has, keeps, exercises or maintains a gaming table or room, or gaming implements or apparatus, or house, booth, tent, shelter or other place for the purpose of gaming or gambling or in any place of which she or he may directly or indirectly have charge, control or management, either exclusively or with others, procures, suffers or permits any person to play for money or other valuable thing at any game whatever, whether heretofore prohibited or not, shall be guilty of a felony.

This provision from the Florida Criminal Code was passed in 1887 and is nearly identical to provisions found in every state in the Union. The provision stands for this very basic proposition: If you control any place (be it permanent or temporary structure) that is regularly used

by others for any type of gambling whether you are involved in the gambling or not, you are a felon.

Said another way: If you host a regular poker game where money or anything of value changes hands, you are a felon. Note the use of the words "directly or indirectly" and "exclusively or with others." It doesn't matter if it is at a social club, a condo association recreation hall or your kitchen table, and it doesn't even matter if you are there as this statute can apply to you if someone is there on your behalf or under your direction.

I raise this issue as I'm regularly asked if social clubs are exempt or if home games are exempt or if I use chips and there is no cash on the table are they exempt. The answer to all of these is "no." If you are the host or involved with others in the regular hosting of a poker game, you have a problem and need to get more familiar with your state penal code or some disgruntled player can leave your game, call law enforcement and put you on an all-expenses-paid tour of the inside of your local jail.

Usually after I give this answer, I'm asked where the loophole is and I'm sure that is going through your mind. Unfortunately for the purposes of this column, there is no easy or generic answer. A review of the law in your state and the local ordinances where you play are required.

Some states allow for home games if you abide by a strict safe harbor statute. Knowing this, if you are promoting your game to the public via some of the popular home-game websites and attempting to recruit players outside of friends and family then in nearly every instance you have a problem and are violating state and possibly federal gaming laws.

Fortunately most states have legal outlets for your quest for a regular game. Seek out the legal regulated venues, and you will find two things to kick off your 2011 at the tables, plenty of fresh pigeons to pluck and a year where you don't have to check "Yes" to the question: "Have you ever been convicted of a felony?"

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