

# WHAT CONSTITUTES GAMBLING?

Over the past month or so, I've traveled all over the Southeastern United States. No matter where I've been, Alabama, Georgia, the Carolinas, Virginia or Florida, the same questions seem to persist in the media and from the general citizenry: Is a particular activity gambling?



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In Alabama, it's bingo; Florida, it's amateur poker leagues; the Carolinas and Georgia it's sweepstakes gaming; and in Virginia it's charity poker halls. So, is it gambling and is it legal?

Without getting into the legal subtleties of each activity, I'm hoping to lay out a basic primer to help you answer the questions. After all, if it's illegal you could find yourself on the wrong end of the law or worse you could be banned from all the poker rooms in The South.

Gambling is defined by the courts as "the act of risking something of value for a chance to win a prize." That seems pretty simple, yet I often hear of someone engaging in any of the above activities and justifying them by saying indignantly, "Well, it's not really gambling." Let's be clear, in nearly every instance it is gambling under state and federal laws.

The concept of risk is something with which most of us are familiar. In the context of gambling, it's simply the act of relinquishing control of an outcome to another person, object or circumstance. It could be the spin of a wheel, the outcome of a sporting event, turn of a card or even the skill of our mind vs. the mind of another. Without risk none of the aforementioned activities would be interesting or marketable. When it comes to determining a gambling transaction, risk or chance is rarely at issue. The bigger question usually revolves around if there's value to the object at risk.

Nearly every southern state has adopted a very expansive definition of what "something of value" is within the context of a gambling transaction. Money and property are not the boundaries despite what conventional wisdom dictates. Alabama and Florida have gone so far as to look at even an investment of time at someone's place of business as "something of value" for the purpose of evaluating whether an activity is gambling.

Each state's Supreme Court was posed with a question of whether a free entry into a sweepstakes conducted by a business was gambling. In each case, the undisputed facts were the business let any member of

the general public enter without the need to purchase anything. The courts found that the investment of time and increased patronage of the business indicated "something of value" flowing to the business, and as a result, the activity was deemed gambling. Keep that in mind the next time you sit at a freeroll tournament regardless of location.

The last issue whether there is some form of prize to be won. I usually answer this question with another question: If there is not prize, why would people play? Again, the activities all involve some sort of prize. Freeroll tournaments usually result in the awarding of points that can be parlayed to seats in cash tournaments or some other reward.

Electronic sweepstakes usually do the same thing, allowing points to be redeemed for cash or merchandise. Even a hole-in-one contest typically has a nice prize. Oftentimes operators remove the direct prize by placing an intermediate step such as the awarding of points or some other "valueless" object that can be redeemed for the ultimate prize. This does not save the activity from being gambling.

Moving quickly through the steps you can see that most all activities involving some chance and a prize will be considered gambling. So why do the activities persist if they're gambling you might ask? Simple. The legislature in most states have carved out safe harbors that legalize the particular kind of gambling. Commercial game promotions or "sweepstakes" have been legalized in most states. Penny-ante card-game statutes have been passed to protect recreational home games. And finally, some games of skill have been removed from prohibited gambling activities. To understand the subtleties of these activities and the laws that arguably make them legal requires reams of paper and days of legal analysis in some instances.

To ace Gaming 101, though, simply look for the risking of something of value for a prize. When you see it, don't make the mistake of saying, "Well, it isn't gambling." It is gambling, but has the state in some form or fashion created a safe harbor for it? If you want to go into greater detail than that, you may want to find a good lawyer to help you, otherwise you might be engaging in another type of gambling involving the sheriff, a judge and a jail cell.

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## DON'T CRACK UNDER PRESSURE!

Stephen Bloomfield, a.k.a. the Doc, is one of Florida's leading psychologists. He wrote **Head Games** in the late '80s to help competitors of every type use the skills he had learned about the effects of the mind on performance.



- ♣ After five years of playing poker in Florida, Mississippi, Las Vegas, Connecticut and occasionally online, Doc is sharing his skills with Ante Up readers through periodic columns, titled Head Games.
- ♥ Doc offers support to some of the region's best professionals and amateur players with one-on-one advising sessions and group workshops.

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