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Mr. Michael McCreery
United Counties Council of Illinois
217 East Adams Street, Suite 101
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RE: Poker Runs that Cross County Lines Updated in Light of Public Act 99-0405

Dear Mike:

Question:

There have been several questions regarding how poker runs that cross county lines should be handled. Specifically, the following questions have been asked: (1) can the primary location authorize the raffle and list all locations the poker run visits or would the licensee have to request a separate poker run license for each county where the run stops, and (2) do stops not within the licensing authority have to be listed on the application and license?

Does Public Act 99-0405 address any of the issues raised or identified herein?

Analysis:

Unfortunately, the language in some of the provisions of the Raffles and Poker Runs Act (the "Act") does not provide for clear answers to these questions. This opinion will point out a few of these provisions so that you may raise and discuss with your State's Attorney the best way for your county to manage any uncertainty.

The first sentence of section 2(c) of the Act¹ seems clear enough. That section states that "[p]oker runs shall be licensed by the governing body with jurisdiction over the key location." The "key location" is defined as the location where the poker run concludes and the prize or prizes are awarded.² Therefore, it seems clear that the governing body that has jurisdiction over

¹ 230 ILCS 15/2(c).

² 230 ILCS 15/1.

the location where the poker run concludes and the prize or prizes that are awarded is the same governing body that has the licensing authority for that poker run. As will be discussed below, this raises several possible issues.

The meaning of the second sentence of section 2(c) is less clear because that sentence seems to use “key location” synonymously with the phrase “governing body with jurisdiction over the key location.” Section 2(c) states “[t]he license granted by the key location shall cover the entire poker run, including locations other than the key location.” This sentence causes confusion for a couple of reasons.

First, if we substitute the Act’s definition of “key location” into that sentence where the legislature used the term “key location”, that sentence would read as follows: “[t]he license granted by the location where the poker run concludes and the prize or prizes are awarded shall cover the entire poker run, including locations other than the location where the poker run concludes and the prize or prizes are awarded.” This reading is untenable because the location where the poker run concludes and the prize or prizes are awarded, such as a bar, does not issue the poker run license. The governing body with jurisdiction over that location issues the license. While we have to interpret the statute as it is written, it is likely the legislature meant that sentence to read “[t]he license granted by the governing body with jurisdiction over the key location shall cover the entire poker run, including locations other than the key location.”

The second sentence of section 2(c) is also confusing because it says the license “shall cover the entire poker run, including locations other than the key location.” However, the fact of the matter is that poker runs often involve stops at locations in two or more counties. The definition of key location seems to contemplate that there will only be one key location. Thus, the question exists whether the license granted by the governing body with jurisdiction covers all stops in the poker run, including those in other counties, or whether it only covers all stops within the key location’s licensing authority’s jurisdiction.

The last sentence of section 2(c) states that “[e]ach license issued shall include the name and address of each predetermined location.” This sentence does not limit the requirement to predetermined locations within the jurisdiction of the governing body with jurisdiction over the key location. However, section 3(2)’s requirement that the application for license and the license to specify the area or areas within the licensing authority where the poker run will be conducted is limited to the locations within the licensing authority.³

Public Act 99-0405 makes four significant changes to the Act. First, the definition of a “poker run” has been revised to remove references to playing cards and instead references an event where participants “play a randomized game based on an element of chance.” The definition now specifically includes events where participants play a randomized game at each location. Second, Counties no longer have discretion to establish a system for licensing of

³ 230 ILCS 15/3(2).

organizations. Rather, “any” county, other than Cook, is required to establish a system for licensing. Third, poker runs, unlike raffles, may be issued a license for the purpose of maintaining the financial stability of the licensed organization. Fourth, the public act modifies the Act so that only raffles are required to be conducted under the supervision of a manager.

Conclusion:

As stated, the Act has somewhat conflicting provisions on the issue of whether the license and application are required to list all predetermined locations for the poker run or only those locations within the licensing authority’s jurisdiction. As previously indicated, section 2(c) of the Act states “[e]ach license issued shall include the name and address of each predetermined location.” However, section 3(2) states “[t]he license and application for license must specify the area or areas within the licensing authority in . . . a poker run will be conducted.” Because of these inconsistent provisions, it is best practice to require all stops of the poker run to be listed on the license and application.

It is less clear whether the key location’s governing authority can authorize all locations the poker run visits, no matter which county the locations are in, or whether the licensee must request a separate poker run license for each county where the run stops. In other words, does one license authorize a poker run to span as many counties as the organizer sees fit based on section 2(c), or does section 3(2) sufficiently limit the scope of the license to the jurisdiction of the licensing authority?

A plain reading of the statute would seem to indicate that the key location’s licensing authority could authorize a poker run and all stops, no matter the county. As stated, the statute states “[p]oker runs shall be licensed by the governing body with jurisdiction over the key location.” From this language, it appears the legislature contemplated that poker runs would have locations in multiple counties. The statute also states “[t]he license granted by the key location *shall cover the entire poker run, including locations other than the key location.*” “Shall cover the *entire* poker run” indicates the license would be good for all locations, no matter in which county. However, it is reasonable to interpret section 3(2)’s requirement that the application for license and the license to specify the area or areas within the licensing authority where the poker run will be conducted limits the licensing authority’s jurisdiction to those locations within the county.

As a practical matter, allowing counties to license activities that partially occur in other counties may cause potential problems. For example, under what authority would one county enter into another to enforce any license granted? For instance, if a poker run were to be licensed in County X and the poker run had planned stops in County Y but also stopped at a non-listed location, whose law enforcement would handle the matter? Would the Sheriff from County X come into County Y to enforce its license? Moreover, what if the license issued by the licensing authority over the key location listed poker run stops located in a county that has chosen not to enact a licensing scheme?

These are some of the concerns we have identified relating to the language of the Act and the issue of multi-county poker runs.

Finally, it should be noted that “[t]he governing bodies of 2 or more adjacent counties may, pursuant to a written contract, jointly establish a system for the licensing of organizations to operate poker runs within the corporate limits of such counties.”⁴

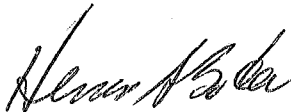
As a matter of best practice, it may be best to have applicants list all locations, regardless of their location within or outside the county, but note that their license may only be sufficient to cover the locations within the county they are applying, and suggest that they contact all counties involved so that they do not run afoul of differing county requirements.


Unfortunately, the changes in Public Act 99-0405 do not address the issues raised in the original opinion authored by this office. A copy of the original opinion along with a copy of Public Act 99-0405 is attached for your convenience.

Having identified these issues relating to this recently amended/new act and the issues it raises with respect multi-county poker runs, it may be best to seek legislative clarification, as well as legal guidance from your respective State’s Attorneys with respect to the questions that have been posed.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.


Herman G. Bodewes


Jason E. Brokaw

HGB/JEB:pa

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Disclaimer: This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State’s Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State’s Attorney.

⁴ 230 ILCS 5/2(a-5).