



514-A Springbrook Road  
Charlotte, NC 28217

704-525-3784 Telephone  
704-525-3785 Facsimile  
[www.ShowProStaff.com](http://www.ShowProStaff.com)

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September 1, 2010

*Training Institute*

RE: Casino Nights

The legality of Casino Nights in North Carolina has been a topic in the law enforcement community for many years. This letter will only address allowing casino nights at ABC permitted establishments, not non-permitted establishments.

My advice as an Alcohol Risk Management consultant would be ***“NOT”*** to allow Casino Nights on ABC permitted establishments in Mecklenburg County. This advice is based on my conversations yesterday and today with employees of the North Carolina Alcoholic Beverage Control Commission’s legal division, North Carolina Alcohol Law Enforcement Division, Mecklenburg County District Attorney’s office and Mecklenburg ABC Law Enforcement.

The history of the legality of Casino Nights dates back at least 25 years when I was an ALE Agent. Because of the charitable nature of casino nights, some district attorneys opt not to prosecute those engaged in this type of fund raising event however there are also some district attorneys who believe merely possessing the equipment violates North Carolina gambling statutes and ABC statutes. (see table 1)

The following are opinions offered by each of the above agencies:

Mecklenburg County District Attorney’s Office

On August 31, 2010, I spoke with Bruce Lilly, Assistant District Attorney, in Mecklenburg County who is responsible for screening all misdemeanors. Mr. Lilly advised his office could not dictate enforcement actions by state and local law enforcement. His office receives cases after law enforcement takes action and he then determines if the crime cited is prosecutable or not. Because there are multiple state and local law enforcement agencies operating in Mecklenburg County including the Sheriff’s Department, Charlotte-Mecklenburg Police Department, Mecklenburg County ABC Law Enforcement and North Carolina Alcohol Law Enforcement each agency has their own priorities and opinions on the legality of Casino Nights. The district attorney’s office is prohibited from



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offering opinions to private businesses on the legality of specific events. Although the screeners at the District Attorney's office have the authority to dismiss cases presented by law enforcement if it is determined the case is not prosecutable, he could and would not predict whether or not his office would opt to dismiss future "Casino Night" related cases presented by law enforcement.

#### North Carolina Alcohol Law Enforcement - Charlotte District Office

On August 31, 2010, I spoke with Omar Qureshi, ALE Special Agent, Charlotte District Office of the North Carolina Alcohol Law Enforcement Division. Agent Qureshi advised although Casino Nights were not a priority of the local ALE office, if they receive a complaint, his office will take enforcement action. It is his opinion, mere possession of equipment used in Casino Nights violate the general statutes. Agent Qureshi could not and would not predict what type of enforcement action might be taken.

#### North Carolina Alcoholic Beverage Control Commission

On September 1, 2010, I was informed by General Counsel Fred Gregory, the ABC Commissions policy is that Casino Nights are illegal.

#### Mecklenburg County ABC Law Enforcement

On September 1, 2010, I spoke with Mike Crowley, ABC Law Enforcement Chief. Chief Crowley advised although Casino Nights were not an enforcement priority with his agency if they received a complaint enforcement action would be taken. Chief Crowley believes mere possession of the equipment used in Casino Nights violate the general statutes. Chief Crowley could not and would not predict what type of enforcement action might be taken.

Although there are companies operating in North Carolina who are in the business of putting on Casino Nights as fund raising events and possess the equipment need for these events, ABC permitted establishments come under the rules, regulations and laws of the North Carolina Alcoholic Beverage Control Commission. Violations of local or state laws can result in revocation or suspension of ABC permits and administrative penalties.

Whether or not an ABC permitted business is caught allowing a Casino Night is irrelevant and even if a local district attorney opted not to prosecute, the ABC Commissions policy is they are illegal. Another factor is the negative media attention a business may suffer from being charged or violated.

Because of the popularity of these events coupled with the inconsistent enforcement throughout the state, it seems the remedy is to have a bill introduced in the legislature to allow specific "charitable" casino nights like the statutes do with bingo and legal raffles.



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I hope this information is useful and helpful.

If I can be of further assistance please do not hesitate to contact me at 704-525-3784.

Regards,

A handwritten signature in black ink, appearing to read "Robert D. Sellers", written in a cursive style.

Robert D. Sellers

VP of Training

Show Pros Alcohol Risk Reduction Training Institute

Cc: Todd Stewart, Show Pros

Cc: Sid Smith, Executive Director CAHA



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## TABLE 1

### **§ 14-293. Allowing gambling in houses of public entertainment; penalty.**

Except as provided in Chapter 18C of the General Statutes, if any keeper of an ordinary or other house of entertainment, or of a house wherein alcoholic beverages are retailed, shall knowingly suffer any game, at which money or property, or anything of value, is bet, whether the same be in stake or not, to be played in any such house, or in any part of the premises occupied therewith; or shall furnish persons so playing or betting either on said premises or elsewhere with drink or other thing for their comfort or subsistence during the time of play, he shall be guilty of a Class 2 misdemeanor. Any person who shall be convicted under this section shall, upon such conviction, forfeit his license to do any of the businesses mentioned in this section, and shall be forever debarred from doing any of such businesses in this State. The court shall embody in its judgment that such person has forfeited his license, and no board of county commissioners, board of town commissioners or board of aldermen shall thereafter have power or authority to grant to such convicted person or his agent a license to do any of the businesses mentioned herein. (1799, c. 526, P.R.; 1801, c. 581, P.R.; 1831, c. 26; R.C., c. 34, s. 76; Code, s. 1043; 1901, c. 753; Rev., s. 3716; C.S., 4431; 1967, c. 101, s. 1; 1981, c. 412, s. 4(4); c. 747, s. 66; 1993, c. 539, s. 205; 1994, Ex. Sess., c. 24, s. 14(c); 2005-344, s. 3(f).)

### **§ 14-294. Gambling with faro banks and tables.**

If any person shall open, establish, use or keep a faro bank, or a faro table, with the intent that games of chance may be played thereat, or shall play or bet thereat any money, property or other thing of value, whether the same be in stake or not, he shall be guilty of a Class 2 misdemeanor. (1848, c. 34; R.C., c. 71; 1856-7, c. 25; Code, s. 1044; Rev., s. 3717; C.S., s. 4432; 1993, c. 539, s. 206; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 14-295. Keeping gaming tables, illegal punchboards or slot machines, or betting thereat.**

If any person shall establish, use or keep any gaming table (other than a faro bank), by whatever name such table may be called, an illegal punchboard or an illegal slot machine, at which games of chance shall be played, he shall be guilty of a Class 2 misdemeanor; and every person who shall play thereat or thereat bet any money, property or other thing of value, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor. (1791, c. 336, P.R.; 1798, c. 502, s. 2, P.R.; R.C., c. 34, s. 72; Code, s. 1045; Rev., s. 3718; C.S., s. 4433; 1931, c. 14, s. 2; 1993, c. 539, s. 207; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 14-297. Allowing gaming tables, illegal punchboards or slot machines on premises.**

If any person shall knowingly suffer to be opened, kept or used in his house or on any part of the premises occupied therewith, any of the gaming tables prohibited by G.S. 14-289 through 14-300 or any illegal punchboard or illegal slot machine, he shall forfeit and pay to any one who will sue therefor two hundred dollars (\$200.00), and shall also be guilty of a Class 2 misdemeanor. (1798, c. 502, s. 3, P.R.; 1800, c. 5, s. 2, P.R.; R.C., c. 34, s. 73; Code, s. 1046; Rev., s. 3719; C.S., s. 4434; 1931, c. 14, s. 3; 1993, c. 539, s. 208; 1994, Ex. Sess., c. 24, s. 14(c).)

### **§ 14-298. Seizure of illegal gaming items.**

Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1A, or any game terminal described in G.S. 14-306.3(b) is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law. Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes. If the court determines that the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment. (1791, c. 336, P.R.; 1798, c. 502, s. 2, P.R.; R.C., c. 34, s. 74; Code, s. 1049; Rev., s. 3720; C.S., s. 4435; 1931, c. 14, s. 4; 1973, c. 108, s. 11; 2000-151, s. 5; 2004-199, ss. 47(a), 47(b); 2004-203, s. 20(a); 2007-484, s. 3(a); 2008-122, s. 2.)

### **§ 18B-1005. Conduct on licensed premises.**

(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

- (1) Any violation of this Chapter;
- (2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or
- (3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.
- (4) through (6) Repealed by Session Laws 2003-382, s. 1, effective August 1, 2003.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued. (1943, c. 400, s. 6; 1945, c. 708, s. 6; c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 13, 15; c. 1251, s. 3; 1957, c. 1048; 1959, c. 745, s. 2; 1963, c. 426, ss. 6, 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 30; c. 1295; c. 1452, s. 4; 1977, c. 176, ss. 1-3; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, ss. 18, 19; 2003-382, s. 1.)