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[Skip to main content](#)

[Home](#)

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- [Home](#)
- [Auto Industry](#)
- [Gaming](#)
 - [Fantasy Sports](#)
 - [Limited Gaming](#)
 - [Sports Betting](#)
- [Liquor & Tobacco](#)
 - [Liquor](#)
 - [Tobacco](#)
- [Marijuana](#)
- [Racing](#)
- [Contact Us](#)

1. [Home](#)
2. What is Legal? Gambling Questions in Colorado

What is Legal? Gambling Questions in Colorado

The Colorado Constitution and Colorado law allow only certain types of "gambling." In addition to limited gaming in Colorado casinos, the following forms of gambling are **legal**:

- [Colorado Lottery](#)
- [Colorado Division of Racing](#)-Live and off-track betting on horse racing events
- [Secretary of State's Office](#) - Licensing & Regulations for bingo, raffles and charitable games.
- ["Social" Gambling](#) (See Social Gambling Exception below)

All other forms of gambling are prohibited.

Information and commonly asked questions about both legal and illegal gambling activities:

[Illegal Gambling Activities News Release](#)

[Formal Opinion of Online Gambling by Attorney General](#)

Charity Organizations and Casino Gambling Events

Although the Division of Gaming cannot provide any legal advice, the following is some guidance based upon what has been deemed illegal under Colorado law. Counties and municipalities would have jurisdiction over these matters and may have local ordinances that also address gambling issues, so we encourage you to contact your local district attorney or city attorney's office for guidance because the Division only regulates casino gambling in Central City, Cripple Creek and Black Hawk.

Colorado law does allow charitable organizations to sponsor gambling events at a licensed retailer/operator. (This means a licensed casino in Cripple Creek, Black Hawk or Central City, Colorado.) The provisions governing these events are found in Colorado Revised Statutes, sections 44-30-901, 902 & 903. ([View Colorado's gaming statutes.](#))

Outside of the gaming towns, criminal statutes govern gambling activity. For "gambling" to occur, three elements must be present: consideration, chance, and reward. These elements are sometimes expressed as "payment, luck, and prize." The first level of inquiry, then, is whether all three of these components are present, because by eliminating any one of them, the activity would not meet the definition of "gambling" as set forth in Colorado law.

For example, if the consideration component is eliminated and no fee, buy-in or other money is required or solicited from the participants, then prizes may be awarded to the player(s) who perform well in a casino type game. This is how several organized poker tournaments are able to operate legally outside the three gaming towns. On the other hand, if an organization charges a donation, fee or other buy-in for the casino games or just for the event, then it cannot legally distribute prizes or money based upon who wins or plays well in the casino type games. Such an organization could legally conduct a drawing, door prize or raffle as long as the prizes are awarded randomly and are not tied to success in the casino type game(s). Likewise, the organization could legally conduct the casino type games for the pure entertainment value alone. By disconnecting any prize or money from the risk element of the casino type game(s), such activity would arguably not meet the definition of gambling.

Although there is a social gambling exception in statute, the Colorado Supreme Court has held that charitable events do not qualify. [Charnes v Central City Opera House 1989.pdf](#)

Because a charity event typically seeks to raise money, the only way to hold a casino night where participants pay or donate money, is to hold the casino games for entertainment value only. In other words, there can be NO cash or other prizes awarded as a result of the games played. However, a raffle or door prize scenario where anybody can win the prize without regard to how they played or if they played the games is an option.

Companies do exist that will rent the needed equipment for casino type games. Lastly, if the charitable event will involve a liquor license, the [Division of Liquor Enforcement](#) could provide guidance on these issues.

Colorado Division of Gaming

May 2014

Fraudulent Acts

"Find a penny, pick it up," might be a familiar childhood rhyme, but in Colorado casinos, keeping found money in or from a casino is a violation of state gaming law.

When Colorado voters legalized limited gaming in 1990, slot machines typically used coins: pennies, nickels, dimes and quarters. In many jurisdictions outside of Colorado, people would walk around casinos, glancing at empty slot machines, looking for any coins left behind. The name "silver miners" was coined to describe people who looked for money around casino games.

Slot machines keep track of how much money has been played and how much money has been won or lost, but in recent years, most slot machines have migrated to modern technology where the machine does not spill out coins when there's a jackpot. Electronic bells and whistles have taken the place of the happy jangle of a pile of coins spilling into a metal tray.

The problem of people "mining" for dropped coins has also evolved along with technology. People may be questioned or even charged with Fraudulent Acts if they sit down at a slot machine and play off credits another player has left behind.

Buckets of jackpot coins have been replaced with slips of paper, called "TITO," slips for "ticket in, ticket out." When a player finishes playing a slot machine and has credits accumulated on the machine, he or she can cash out the winnings, which is a printed slip of paper showing the balance. That TITO slip can be reinserted into another slot machine, redeemed at a kiosk, or turned into a casino cashier in exchange for cash.

So if a person sits down at a slot machine and plays someone else's credits, how do casino staff and Division of Gaming investigators determine just whose money is being played? For starters, every slot

machine is under surveillance. Surveillance video can determine who played, how much they bet, how long they played, and whether jackpots were won. Event logs maintained on each slot machine can verify every transaction that took place, including game play history.

Likewise, if the first or second player used a player card (a player-specific card issued by the casino to track player use as well as link the player to promotions and marketing opportunities), transactions that took place on the slot machine after the card was inserted by the patron can be accessed to view the details.

Sometimes the second player sits down at a slot machine and simply doesn't recognize that there are credits on the machine, and may insert additional money on top of existing credits. The slot machine event logs, as well as the visual information from surveillance, is usually enough to determine if either player is owed credits or money. A player who finds someone else's credits and plays them off can be issued a citation under the Fraudulent Acts law.

If you find a lost ticket, cash or coins on the casino floor, let a casino staff member know. If you want to play a vacant slot machine and discover someone else's credits are waiting, you can find another machine or notify a casino staff member to properly document and remove the existing credits so you can play. If a patron returns to the casino looking for the lost ticket or money, the casino will return their property. If they return to a slot machine where they have left credits, the casino can return those as well. But there is no allowance under Colorado law for "finders keepers" to keep a windfall.

2014

Social Gambling Exception

Colorado law allows a "social gambling" exception, which allows "gambling" that is incidental to a bona fide social relationship and is participated in by natural persons. A "bona fide social relationship" means that the parties must have an established social relationship based upon some other common interest other than the gambling activity.

Further, one participating in such social game cannot directly or indirectly participate in "professional gambling," which is defined in Colorado law as "aiding or inducing another to engage in gambling, with the intent to derive a profit therefrom." This generally means that no one other than the players can profit from the game or activity in any manner. The profit does not need to be direct profit. Colorado law defines "profit" as any "realized or unrealized benefit, direct or indirect, including without limitation benefits from proprietorship, management, or unequal advantage in a series of transactions."

These two criteria - a bona fide social relationship and no profit motive - must be present for a gambling activity to be considered legal "social gambling."

Poker Tournaments and Casino Nights

The Colorado Attorney General's Office and the Colorado Limited Gaming Control Commission have worked together to put together this response for information purposes only. This response should not be construed as a legal opinion, and you should consult with legal counsel before taking final action regarding the information in this response. Further, this response only encompasses Colorado State statutes. County and municipal jurisdictions may have local ordinances that may also address gambling issues. You should contact your local district attorney's office to determine these ordinances.

The first consideration in determining if a poker tournament or "casino night" is allowed under social gambling laws is whether the activity is defined as "gambling." For gambling to occur, three factors must be present - consideration, chance and reward. These can be better described as "payment, luck and prize." If any of these three factors is not present, then the activity is not considered gambling. For example, if no donation, fee, buy-in, tips, drink minimums or any other monetary consideration are required or solicited from the participants in a poker tournament or casino night, then prizes may be awarded to the player(s) who perform well during the tournament or games.

On the other hand, if an organization charges a donation, fee or other buy-in for a poker tournament or casino night, then it cannot legally distribute prizes based upon who wins or plays well in the tournament or event. Such organization could legally conduct a drawing, door prize or raffle as long as the prizes are randomly awarded and are not tied to success in the tournament or event. Likewise, the organization could legally conduct the tournament or casino night for the pure entertainment value alone. By disconnecting the prize from the risk element of the poker or other event, such activity would arguably not meet the definition of gambling. The Colorado Secretary of State handles permits for bingo and raffle events. This paragraph applies even if the poker tournament or casino night is for charity and/or the prizes are donated.

Once the activity has met the legal definition of "gambling," it can still be a legal activity if it meets the "social gambling" exception in Colorado statute.

Internet Gambling

Internet gambling is illegal under state and federal laws. Colorado law prohibits the transmission or reception of gambling information by any means. The federal Unlawful Internet Gambling Enforcement Act, signed into law in October 2006, prohibits online gamblers from using credit cards, checks and electronic fund transfers to place and settle bets. Further, the federal 1961 Wire Act also prohibits the use of wire communications in interstate or foreign commerce for the placing of bets or wagers or information assisting in the placing of bets or wagers.

Unlike participants in legalized forms of gambling, persons who wager on online casinos have no recourse with any state agency should they not be paid for winning wagers or have any other dispute with the entity with which they are placing their bets. Furthermore, players are not guaranteed odds. By statute, slot and video machines in Colorado casinos must pay out between 80 percent and 100 percent. Online casinos are not required to have minimum payouts and are under no form of regulatory control to ensure compliance with any payout controls.

Many online sites advertise they are "legal" and "licensed" forms of wagering. They may be legal or licensed where the bets are received, but it remains illegal to place bets from Colorado with these businesses.

In addition, the Colorado Limited Gaming Control Commission prohibits persons and businesses licensed in the casino industry in Colorado from having any involvement with internet gaming sites that can be accessed by Colorado residents.

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