

Attorney general opinion requested on poker houses that charge fees

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AUSTIN—Poker houses that charge a membership or entrance fee violate gambling provisions in the Texas Penal Code, a statewide anti-gambling organization argues in a brief submitted to the state attorney general's office.

Stop Predatory Gambling Texas, also known as Texans Against Gambling, sent a March 1 letter to Attorney General Ken Paxton presenting a legal rationale for finding many private poker clubs violate state law.

Texas law allows limited social gambling under certain conditions—it must occur in a private place, no person may receive any economic benefit other than personal winnings, and, except for the advantages of skill or luck, the risks of losing and the chance of winning must be the same for all participants.

Under that law, any establishment that receives a “rake”—a fee or percentage of the value at risk in gambling—clearly is operating illegally, but some lawmakers want clarification about the legal status of poker clubs that charge fees.

In January, Rep. Geanie Morrison, R-Victoria, requested an opinion from the attorney general on the question: “Are poker gambling enterprises that charge membership or other fees or receive other compensation from gamblers playing poker—but do not receive a ‘rake’—permitted under Texas law?”

“It has been brought to my attention that some poker gambling enterprises in this state, while not taking a ‘rake,’ are nevertheless compensated by charging poker gamblers fees such as per-seat or time-based fees, membership fees, subscription fees and entry fees,” Morrison wrote. “These enterprises often advertise to the public and conduct their business in commercial, nonresidential areas.”

The letter brief from Stop Predatory Gambling Texas argues the state’s penal code defines “economic benefit” broadly.

“That the owner or operator of a gambling establishment receives a benefit—an economic gain—from a gambler’s membership or entrance fee is indisputable, as is that the gain has no relation to the owner or operator’s ‘personal winnings,’” the brief states. “The benefit incontrovertibly marks a commercial gambling establishment that violates the Texas Penal Code.”

The attorney general is expected to render his opinion by July 25.