



DIVISION OF GAMBLING CONTROL

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GAMBLING ESTABLISHMENT ADVISORY

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Gaming Table Jackpots Considered To Be Illegal Lotteries Unless Certain Conditions Are Met

The Division of Gambling Control (Division) has become aware that there is some confusion within the cardroom industry on the issue of eliminating the illegal lottery element associated with “jackpot poker.”

Jackpots appended to “live” wagering games, as a general rule, are illegal in that they have all of the classic elements of a lottery, ie., a prize, won by chance, with consideration required to participate. Without more, these jackpots would be illegal lotteries. To avoid the clear illegality of these jackpots, cardrooms can provide a “No participation Necessary” (NPN) opportunity for patrons, thus eliminating one of the three necessary and defining elements of a lottery –consideration– as a requirement of eligibility to win the jackpot. Typically, this opportunity is presented through availability of one or more NPN tables where patrons do not gamble and do not pay a fee, but are eligible for the jackpot just as if they were at a “live” gambling table and paying a fee.

It is the view of the Division that the NPN option makes the jackpot at the “live” tables legal, as long as the NPN jackpot opportunity offered at a licensed table is available at all times that the jackpot is available for patrons at “live” tables, with no restrictions on the opportunity for the NPN patrons to win the jackpot. When patrons are not eligible to win a jackpot without gambling or paying a fee (consideration), the jackpot is illegal because it contains the elements of a lottery; prize, chance, and consideration. Failure to meet these requirements pursuant to Penal Code sections 319 (Lottery Defined) and 320 (Contriving, preparing or drawing), may result in criminal and/or administrative action against the licensed cardroom.

For more information regarding this advisory, contact the California Department of Justice, Division of Gambling Control, at (916) 263-3408.

