

**HOLD TIGHT ON TEXAS HOLD 'EM GAMES:  
Popular Poker Game Is Not Currently Authorized  
Under MLCC Regulations**

*By: Michael J. Brown/January 2005*

A quick check of the cable television listings for practically any night of the week reveals America's recent fascination with poker games. Although the game of poker is probably older than the United States itself, in the last few years we have witnessed an explosion in the game's popularity. Any given night, on one of five or six different cable tv channels, one can spend hours watching the various poker tournaments that have become a cultural phenomenon.

The most popular of these games being televised is called "Texas Hold 'Em." The game has become so popular that poker-related items are now sold in stores around the country, and poker chips and other game-playing materials became the hottest selling items during this year's Christmas season. The game has recently been added at most Michigan casinos.

Not surprisingly, bars and restaurants have begun asking the Michigan Liquor Control Commission ("MLCC") for permission to run Texas Hold 'Em events or tournaments for their customers. Bars would like to offer the game as entertainment, or in a manner similar to the one allowed by the Michigan Lottery Bureau during charity events, commonly referred to as "Millionaire parties."

To date, however, the MLCC has indicated that Licensees must "hold 'em" when it comes to Texas Hold 'Em events or contests. In other words, a Texas Hold 'Em form of contest is currently not approved by the MLCC.

Under the MLCC's current interpretation of the law, Texas Hold 'Em tournaments or games would violate a provision of The Michigan Penal Code that prohibits gambling by playing cards, dice or any other game. MCL 750.314. This statute makes it illegal for anyone to obtain any sum of money or any goods, or any article of value whatsoever, by playing cards, dice or any other game. If the money, goods, or articles so won or obtained have a value of \$50 or less, the person is guilty of a misdemeanor. If the money, goods or articles so won or obtained have a value greater than \$50, the person is guilty of a "high misdemeanor" punishable by imprisonment for not more than one year or a fine of not more than \$1,000 per offense.

The language of this statute appears to be very broad, and could be interpreted to apply to any card game played either in the privacy of one's own home or played in a

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bar or restaurant. Under the statute, the only exception listed is recreational card playing conducted at a senior citizen housing facility. MCL 750.303a. There are other possible exceptions listed in MCL 750.310, including ones for prizes to players in a game or participants in a contest. That may ultimately pave the way for "Texas Hold 'Em" games to be played lawfully in bars. But for now, until this is clarified, it would appear that even a \$1 game of Euchre played between friends or relatives at someone's house constitutes illegal gambling.

Yet, for years the MLCC has allowed Euchre tournaments or contests to be played in bars. Under MLCC Rule 436.1435, the Commission has for years allowed Euchre tournaments or contests exceeding the \$250 per day prize limit stated in the rule.

According to the MLCC, Euchre games have previously been allowed as a contest or tournament because they were deemed "games of skill" instead of being considered gambling. As of now, the MLCC considers Texas Hold 'Em to be a form of gambling, instead of a game of skill, and thus not something it would approve as a contest or tournament under Rule 436.1435. The MLCC also makes a distinction between Euchre and Texas Hold 'Em based on the fact that Euchre is a game of strategy where the player has to make certain decisions that will affect the outcome of the game (thus the aspect of skill), while in Texas Hold 'Em the player has no opportunity to change cards but must play the cards they are dealt. Thus, from the MLCC's perspective, Texas Hold 'Em is much more of a game of chance compared to Euchre. Although there is obviously some skill involved in playing Texas Hold 'Em (bluffing, betting, etc.), the MLCC still considers it a game of chance, and thus gambling.

As mentioned above, The Michigan Penal Code section that outlaws the playing of any card games for money or prizes causes some to question whether Euchre can be allowed as a contest or tournament. For this reason, the MLCC is reviewing the law as it applies to Euchre tournaments in addition to denying requests for Texas Hold 'Em contests.

Until the MLCC has issued some form of definitive ruling as to the status of Texas Hold 'Em games and other forms of contests or tournaments, Licensees are cautioned that holding any such game or contest could result in a violation. Recreational games where no money or prizes are awarded would not appear to be prohibited by the statute, nor would exhibitions or classes on how the game is played be prohibited. Likewise, broadcast of the games, as seen on cable tv, is legal provided no betting or contest is associated with the outcome of the televised games. Until further word is received from the MLCC, however, Licensees are advised to not go "all in" when it comes to Texas Hold 'Em games.