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NEWS RELEASE

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Attorney General Suthers and Gaming Commission Caution Against Illegal Gambling Activities

DENVER—Colorado Attorney General John Suthers and Colorado Limited Gaming Control Commission Chairman Natalie Meyer today cautioned Colorado residents against participating in illegal gambling activities. With the increased popularity of internet gambling, televised poker tournaments and sports pools, much confusion surrounds the legality of these activities.

Internet gaming, despite being a multi-billion dollar industry, is illegal. Both federal and state laws prohibit internet gaming, as well as toll-free sports wagering hotlines.

“Not only is internet gambling illegal, it is risky,” said Attorney General Suthers. “The player has no idea if the games are being conducted fairly or whether they will even be paid. Plus there are no regulatory controls prohibiting children from accessing the sites and playing.”

Unlike participants in legalized forms of gambling, persons who wager on online casinos or with telephone sports books have no recourse with any state agency should they not get paid or have any other complaint. Furthermore, in the case of online casinos, players are not guaranteed odds. By law, slot and video machines in Colorado casinos must pay out between 80 percent and 100 percent. Online casinos have no minimum payouts or regulatory payout controls.

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“The Gaming Commission places strict controls on Colorado casinos. We have worked hard to maintain a well-regulated industry with an emphasis on casino patron protection,” said Commission Chairman Natalie Meyer. “When a person bets online, they have no such regulatory protection.”

Televised poker tournaments have also spurred interest in poker tournaments in homes and business establishments, particularly bars. For such tournaments in businesses to be considered legal, they must either be completely “free” tournaments or void of prizes.

“As long as no fee, buy-in or other money is required or solicited from the participants in a poker tournament, then prizes may be awarded to the players that perform well in the tournament,” said Attorney General Suthers, who warned that charitable events are not exempt from state gambling laws, and organizers cannot charge to play in such events if prizes are awarded based upon performance in the tournament.

Home poker tournaments and office sports pools are allowed under a “social gambling” exception under state law. For an activity to be considered “social gambling,” all participants must have a “bona fide social relationship,” meaning that they have an established social relationship based upon some other common interest other than the gambling activity, and no one other than the participants can profit from the game or activity in any manner, such as taking part of the pot in a poker game or a sports pool to be compensated for organizing the activity.



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QUESTIONS & ANSWERS: ILLEGAL GAMBLING

Q: Is it legal to place wagers over the internet or by calling a toll-free number in Colorado?

A: No. Internet gambling sites and telephone sports books are illegal under state and federal laws. Colorado law prohibits the transmission or reception of gambling information by any means. Federal law 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. In addition, the Colorado Constitution allows only certain types of “gambling,” which does not include internet or telephone wagering.

Q: What forms of “gambling” are expressly authorized by law?

A: The Colorado Lottery; live and off-track wagering on horse and dog racing events; bingo, raffles and charitable games licensed and regulated by the Secretary of State’s office; limited stakes gaming in casinos in Black Hawk, Central City and Cripple Creek, as well as on tribal reservation land; and “social gambling.”

Q: What is “social gambling”?

A: State law allows “social gambling” among participants who have a “bona fide social relationship” and in which all moneys wagered goes out in prizes. 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, participants cannot directly or indirectly participate in “professional gambling,” which is defined 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. For example, if a liquor establishment or other commercial enterprise derives increased sales or revenues by attracting customers, even without charging a cover or other direct consideration, as the result of gambling taking place at that business, the business is considered to have profited from the activity and the activity would no longer fall under the social gambling exception. These two criteria—a bonafide social relationship and no profit motive—must be present for a gambling activity to be considered legal “social gambling.”

Q: How can online sites and telephone sports book advertise that they are “legal” and “licensed”?

A: These advertisements tell only half the story. The internet site or sports book may be legal or licensed where the site or number is set up, usually offshore, so in that respect they are truthful. However, what the advertisements fail to mention is that placing wagers on these sites or numbers is illegal in the United States and Colorado.

Q: Can radio and television stations and newspapers legally accept advertising for “illegal” sports gambling activities?

A: No. Colorado law prohibits intentionally promoting or facilitating the commission of a criminal offense by aiding, abetting, advising or encouraging the offense. Because advertisements for such activity assist and encourage the violation of Colorado and federal law by soliciting customers in Colorado to bet illegally, the advertising would also likely violate Colorado Consumer Protection statutes regarding deceptive trade practices.

Q: Is there anything being done in Colorado to curb internet gaming?

A: The Colorado Limited Gaming Control Commission has adopted a policy prohibiting 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.

Q: What makes a poker tournament legal or illegal?

A: The main distinction is whether the poker being played is considered “gambling.” 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 in a poker tournament, then prizes may be awarded to the player(s) who perform well in the tournament. 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 a poker tournament or other event, 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 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.

If all three elements are present, the activity is considered “gambling” and can only be conducted in the context of “social gambling” as previously defined.

Q: Are “charitable” poker tournaments allowed?

A: A misconception exists that if a poker tournament is for charity, or the prizes are donated, the charity could charge for the event. Such an event would still be illegal under Colorado law because the three elements of gambling listed above are present. Although the Colorado General Assembly approved a charitable gambling exception in the liquor code in 1979, it was repealed in 1983 because of the explosion of “charity” events, enforcement issues and problems encountered with the money actually going to the charities.

Q: Who can a person contact if they suspect that they may have an addiction problem associated with any type of gambling?

A: Anyone who believes that they may have a addiction problem with internet or telephone wagering, or any other type of gambling activity, legal or illegal, should contact the Compulsive Gambling Hotline at 1-800-522-4700.