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By Opinion Committee at 3:14 pm, Dec 15, 2023

RQ-0527-KP



BRANDON CREIGHTON

STATE SENATOR
DISTRICT 4

December 15th, 2023

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street
Austin, TX 78701

General Paxton:

Gambling in Texas is illegal, outside of a small number of limited exceptions which provide affirmative defense to gamblers and those who own establishments where gambling occurs, found in Sections 47.02(b) and 47.04(b) of the Penal Code. According to state law, affirmative defense can only be achieved under this Section if each of the following requirements are met:

- (1) the actor engaged in gambling in a private place;
- (2) no person received any economic benefit other than personal winnings; and
- (3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

A recent trend across the state is the growing number of private, membership-only social clubs that offer member poker play, among other activities. Their business models typically include annual or monthly membership or other fees, ostensibly eliminating the need to take an illegal scaled commission fee often known as a "rake" and satisfying the privacy requirement.

I have heard from constituents and local officials in my district that the lack of clarity surrounding the applicability of these defenses to such private clubs offering poker has created confusion for local law enforcement. In order to provide guidance to both local law enforcement officials and those who own or participate in these establishments, I am requesting a formal opinion on the legality of this business model with respect to Texas law.

Thank you for your continued service to the State of Texas. Please do not hesitate to reach out to my office with any questions or concerns.

Respectfully,

A handwritten signature in cursive script that reads "Brandon Creighton".

Brandon Creighton
State Senator
District 4

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COMMITTEES:

HIGHER EDUCATION, CHAIR • SELECT COMMITTEE ON PORTS, CHAIR • BUSINESS & COMMERCE
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BRANDON CREIGHTON

STATE SENATOR
DISTRICT 4

RECEIVED

By Opinion Committee at 3:34 pm, Dec 20, 2023

December 20th, 2023

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street
Austin, TX 78701

General Paxton:

On Friday, December 15th, my office formally submitted a request for opinion regarding the legality of private poker rooms operating in Texas. As this is an important issue that has significant effects on law enforcement, business owners and their patrons, I am respectfully asking that this request for opinion be expedited to the best ability of your office.

Myself and my office stand ready to assist in any way possible. Thank you for your consideration and please do not hesitate to contact me with any questions or concerns.

Respectfully,

A handwritten signature in black ink that reads "Brandon Creighton". The signature is written in a cursive style with a large initial "B" and a long, sweeping underline.

Brandon Creighton
State Senator
District 4

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