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## Utahns find ways to gamble despite it being illegal in the state — but the cost is high

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SALT LAKE CITY — A mild disagreement over lyrics to "The Gambler" breaks out as players peak at their cards and plink chips into the center of a green felt table in the basement of a Salt Lake County home on a Saturday night.

One player turns to Google on his smartphone to settle the question and a new line of banter begins among friends gathered for a game of low-stakes Texas Hold 'Em.

The Utah Jazz has long dispatched its latest opponent as part of a modest winning streak and now classic rock plays on the flat screen TV. Packages of pretzels, tortilla chips and mini candy bars lay torn open nearby along with partially consumed bottles of adult beverages.

Twenty dollars buys a seat at the table. Bets range from 50 cents for openers to several dollars as the dealer lays down the flop, the river and finally the turn. The mood is jovial. The game, friendly.

And, under Utah law, illegal.

Utah bans all forms of gambling. Yet, games of chance — poker players would argue theirs is a game of skill — occur with regularity up and down the Beehive State.

"There's so much poker going on in this state," said Chadler Cowles, a past Utah director of the Poker Players Alliance. "You'd be surprised at who you saw at a game — doctors, lawyers, dentists, sometimes bishops, active members of every church you could imagine."

State lawmakers have done everything in their power to make Utah an island in the sea of government-sanctioned gambling coast to coast. But that hasn't stopped Utahns from finding creative ways to throw down a little cash without having to cross the state line.

Cards, bingo, dice, raffles, sports, March Madness and World Series office pools are all available for those looking for some action.

And, of course, there is the Internet where gambling has never been easier or more accepted. Virtual casinos offer poker, blackjack, craps, slots and roulette to anyone with a computer or cellphone. People can gamble sitting at home in their pajamas or riding the train to work.

"It's a changing kind of environment because with electronics and everything, it's getting sophisticated in a different way," said Salt Lake County District Attorney Sim Gill.

Les Bernal, executive director of Stop Predatory Gambling, said commercial gambling operations are targeting the Beehive State. The nonprofit group, based in Washington, D.C., opposed casinos and state lotteries.

"Utah has a bull's-eye on it, no question," he said. "It's in the longterm public interest of Utah to crack down on these illegal games. The ultimate goal here is to try to get Utah into the predatory gambling business."

Statistics on how many Utahns gamble — whether it be online or an illicit poker game — don't exist, making it hard to draw any conclusions about the prevalence of gaming in the state.

Bingo and poker clubs operated widely in Utah, offering video gaming and other wagering similar to that found in casinos, for a time in the mid 2000s. Owners claimed loopholes in the law made their operations legal, although many local prosecutors disagreed.

Some of those businesses closed or were shut down, but others have continued on without much trouble from law enforcement.

Not all games involve playing with money, but in some settings it might be difficult to distinguish which ones are for fun and which ones are for real.

Assistant attorney general Thom Roberts, the state's resident expert on gambling laws, didn't want to comment on specific activities such as weekly

poker or bingo nights at sports bars and restaurants, but in general he said if nothing is risked, it probably isn't illegal gambling.

Under Utah law, gambling means risking something of value in a contest where the outcome is based on an element of chance with the understanding that someone will receive something of value in the event of a certain outcome.

"There are three elements to illegal gambling. To the extent you have all three, you probably have illegal gambling. To the extent you're missing one of those, you probably don't," Roberts said.

## **Bingo night**

"We have a bingo," the caller says at Southgate Dinner and Bingo in Salt Lake County. It's a phrase she will repeat 25 times over the course of an evening. Winners walk away with anything from \$50 for a game of straight bingo to \$500 for an end-of-the-night coverall game.

On this night, about 60 people — mostly 60-ish looking women — plunk down \$28 for cafeteria-style baked chicken breast and rice pilaf and "free" bingo cards. Some play on computers, which automatically mark each box. Others blot out numbers on a paper with a marker. A few do both.

Owner Frank Diana says newcomers to his place typically have two questions: Isn't that gambling? Isn't that against the law?

Diana, whose business card reads, "If you thought all the fun was at the border, think again!" says the answer to both questions is no.

"We're a restaurant," he said. "What we do is sell dinner and we play free bingo."

Diana, who has 36 years in the dinner/bingo business, said it's no different from a kids' pizza parlor providing tokens with the purchase of a pizza.

"This isn't something that's bad," he said. "It's a social activity."

Authorities in Riverdale didn't see it that way a few years ago. Police moved to shut down Riverdale Dinner and Bingo, which Diana also owns.

"On the surface, we considered it a form of gambling. That's the position we took initially," said Steve Brooks, Riverdale city attorney.

Two lawsuits and months of negotiation later, the restaurant reopened under a new name, Frankie's.

Brooks said Diana made some concessions so "it wasn't just upfront gambling."

In 2008, the Riverdale City Council granted Frankie's a business license with stipulations including having to ask patrons if they want to play bingo whether they buy a meal or not. The council also required the restaurant to take bingo out of its name and restricted games to four nights a week. The restaurant also must charge the market rate for snacks.

Brooks said he has heard no complaints about Frankie's the past few years.

But whether bingo is legal remains open to interpretation.

"It cuts close," Gill said. "You have the classic bingo parlor ... where somebody pays \$25 for a hot dog and a drink and they get, supposedly, a free card. But really you're paying for that card in a different way."

### **Know when to hold 'em**

The Wasatch Poker Tour puts on games every night of the week at 15 Salt Lake Valley pubs and sports bars. The tour has about 1,200 registered participants who compete for cash prizes and points without risking any of their own money. Top players may advance to a quarterly tournament that offers a \$3,000 prize. Winners may also qualify for spot at the World Series of Poker, a series of annual big-money tournaments in Las Vegas.

One of those weekly games is at The Break, a sports grill in the Daybreak area of South Jordan.

On a Tuesday night during the NBA season, a Los Angeles Lakers-Dallas Mavericks game projected on several big screen TVs drew little attention from patrons sipping beer and munching burgers. The real action was at four crowded poker tables where more than 30 people — young and old — played Texas Hold 'Em for a \$150 cash prize.

Though players use poker chips, they don't lay down any money. There's no buy-in to play. Patrons simply sign up with the bartender.

"We do everything we can to stay on the right side of the law," said Patrick Beecroft, owner of the Wasatch Poker Tour and a dealer at the weekly games.

For example, the tour doesn't allow players to get extra poker chips by purchasing food or drinks at the bar. "I see it as exchanging money for chips," he said.

Beecroft said law enforcement has looked in on some of his games but generally doesn't pay much attention to them.

In 2007, former state Rep. Stephen Sandstrom unsuccessfully tried to outlaw "gambling-like" activities in establishments that hold state liquor licenses, even if the games were free. That provision didn't make it into the final version of the bill, which simply included the gambling law in the state's alcohol code.

Cowles doesn't believe poker is illegal under Utah law because he considers it a game of skill.

Bernal, of Stop Predatory Gambling, said games that offer prizes or points are designed to deliberately circumvent state law.

"This isn't social gambling, even though they describe it that way. This is a big part of their business model," he said.

### **Gambling crime in Utah**

Law enforcement spends little time breaking up home poker games or tracking down online bettors. Gambling is a class B misdemeanor in Utah.

"Generally, the police are completely disinterested," Cowles said, adding he has seen only one case where a homeowner received a citation for hosting a poker game. He said he's aware of three other instances where police went into a home but because they determined it was a nonprofit game — the house wasn't keeping a percentage of the pot — left without writing tickets.

Unified Police had only seven reports of gambling-related crimes the past five years. Four of those were unfounded, while prosecutors considered charges in only two cases.

"We really have not had much in the last few years," said Unified Police Lt. Justin Hoyal.

Statewide, only 10 cities have handled a total of 48 gambling cases since 2008, according to Utah Department of Public Safety annual crime statistics reports.

Typically, those cases involved a commercial business such as an Internet café or an organized high-stakes gambling operation with a "rake" — meaning the house keeps part of the pot — rather than poker night with the guys.

In January 2012, Salt Lake police used a confidential informant took down a regular poker game in a Draper apartment rented specifically for that purpose. The host charged \$5 per hand and made as much as \$350 a night, according to a police report. He told investigators he was out of work and poker and unemployment benefits provided his only income.

Verbal threats were heard during the games and concealed weapons were common, the informant told police.

Authorities arrested six men and charged them with misdemeanor gambling crimes. All of them paid fines but didn't go to jail.

State lawmakers passed a law aimed at "fringe" gambling two years ago in response to a proliferation of Internet cafes providing credits or sweepstakes tickets for online casino-style games to customers who paid for Internet time. Players could cash out their credits at the end of a session, if they had any left. In some cases, the computers didn't have Internet connections.

Layton authorities became aware of a cafe in their city when the parents of young man called to say their son had run up thousands of dollars on their credit card. Police took action to close the business and worked with city, county and state officials to get the fringe gambling law passed.

"They kind of came and went," Layton assistant city attorney Clint Drake said of the Internet cafes. "I think for the most part, we've done a pretty good job of enforcing the law and they've gone by the wayside."

Salt Lake City police disbanded its vice squad last year and replaced it with an Organized Crime Unit that rather than making arrests emphasizes helping people quit vices such as prostitution and gambling.

Gill said he suspects in-home gambling goes on much more than people realize, but police can't do much unless someone complains or the activity is conspicuous or it's done for commercial gain.

"If those elements are not there, the chances of finding it are really difficult," he said.

## **Internet gaming**

The Internet, particularly, has changed the way people gamble.

"It's an evolving model," Gill said. "We need to probably think about how to address that issue in this new technological age."

Those decisions are up to policymakers. How much should be invested to enforce gambling laws? What would be the return on investment? What does the terrain look like in the constantly changing virtual world?

Sen. John Valentine, R-Orem, who has carried gambling-related legislation, said resources are limited and are placed where they can protect the public from criminals. Someone gambling on a smartphone is a low priority, he said.

Any chipping away at Utah's strict prohibition on gambling appears more likely to come from outside the state than inside.

Senate Majority Leader Harry Reid promised Nevada's gaming industry a federal law to legalize online poker by the end of 2012. That didn't happen. But the Nevada Democrat likely will try again this year.

Utah Sen. Orrin Hatch said he doesn't blame Reid for standing up for the major industry in his state but "I think it's a mistake to do that to America."

"I think we ought to try to stop gambling everywhere but in those few states that really authorize it," he said.

The U.S. Department of Justice reversed its long-held opposition to many forms of Internet gambling in December 2011, opening the door for states to allow online poker and other types of online betting that don't involve sports.

The opinion came in response to requests by New York and Illinois to clarify whether the Wire Act of 1961, which prohibits wagering over telecommunications systems that cross state or national borders, prevented those states from using the Internet to sell lottery tickets to adults within their own borders.

Some states are now looking to cash in on what has become a global multibillion-dollar online gaming industry.

Overseas, online betting is generating an estimated \$32 billion in annual revenue — nearly the size of the U.S. casino market. Juniper Research estimates that betting on mobile devices alone will be a \$100 billion worldwide industry by 2017.

In February, Nevada legalized online poker and New Jersey and Delaware have also made some forms of online gambling legal. Bills are pending in Mississippi, Iowa, California and other states, driven by the realization that online gambling could boost tax revenue. In Iowa, online gambling proponents estimate that 150,000 residents already play poker illegally.

Nevada wants to establish itself as the gold standard in industry regulation with an eye toward partnering with states looking to enter the online gaming realm, but needing an established regulatory structure, according to the Las Vegas Sun.

Neighboring Utah isn't a likely partner in that endeavor. "I don't see us legalizing gambling in Utah," Valentine said.

Hatch agrees, though he left the door slightly ajar.

"I don't think the people of Utah would tolerate it, but you never know," he said. "It's one thing to bet a dollar on a University of Utah-BYU game. That may be fun to do. Or do the normal small things, bet on a golf course or something like that. But I think it's better not to gamble, period."

In a pre-emptive strike, the Utah Legislature last year passed a bill that would allow the state to opt out of any federal law that OKs online gambling. The measure also specifically outlawed gambling on computers and hand-held devices, which was not previously spelled out in Utah law.

Had that not been expressly prohibited, it would have set the stage for Native American tribes to open casinos in the state, said Sandstrom, who carried the bill.

That is because federal law since 1988 has recognized the right of Indian tribes to build casinos or other gambling establishments on their reservations, as long as the state where they are located has some form of legalized gambling. Utah has no tribal casinos because the state outlaws all forms of gambling.

"The true idea was to preserve Utah as one of only two states in the nation that does not have any form of gambling that is legal," he said. "If we had done nothing, it would have made it legal to do Internet gaming in the state of Utah, which would have opened the door for flat gaming on Indian reservations."

Sandstrom, however, conceded police could use the statute to crack down on Internet gambling.

"If Utah really did want to do a sting and start prosecuting people that did online gambling, we could do it because of my law," he said. But "the real reason for doing it wasn't to have people kicking in doors and arresting people playing gambling games on their home computer."

## **A Utah lottery?**

At least a couple of websites and Facebook pages exist that promote the creation of a Utah lottery. But they don't appear to have any serious momentum.

Rex Howard had more than 3,200 likes on his Facebook page, 1,000,000 People in Favor of a Utah Lottery. He's trying to mount a letter-writing campaign urging state lawmakers to consider a lottery as a means to increase funding for Utah's public school system.

"I think it's absolutely possible as the political climate changes in Utah," he said.

[Utahlottery4.utah.com](http://Utahlottery4.utah.com) offers T-shirts and hats printed with "Utah \$\$\$ Lotto" for \$10. Attempts to reach the contact name listed on the site, David James Allen, were unsuccessful.

It turns out he was booked into the Davis County Jail in March on charges of theft and attempting to distribute drugs. In his mug shot, Allen is wearing a shirt with "Utah \$\$\$ Lotto" embroidered on the sleeve.

Michael Geraghty started an online petition for a Utah lottery at [ipetitions.com](http://ipetitions.com) last April. To date it has eight signatures, three of which belong to Geraghty.

"I can't hardly get anyone to sign the petition," he said. "I thought it was totally reasonable."

Geraghty, a 61-year-old retired nurse who drives to Idaho every month to buy lottery tickets, said his effort for a Utah lottery started after he read a news report stating that 19 percent of Idaho's lottery proceeds come from Utahns who make the same trip he does.

"It is obvious to me that Utah's current laws concerning the lottery are not what the people want," he said. "It's not that evil."

Bernal would disagree.

Utah, he said, is one of the best places in the country for business development and has low state debt due in large part to resisting government sponsored gambling as a way to fund public services.

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