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Are poker clubs legal in Texas? The answer is unclear.

The raids of two Houston private poker clubs in May — which resulted in charges of money laundering, gambling promotion and engaging in organized crime — left many readers wondering: Are these establishments illegal? State law is unclear on the question, and this ambiguity has allowed dozens of clubs to open around the state.

The Texas Penal Code, Section 47, prohibits individuals or establishments from receiving “any economic benefit other than personal winnings.” This statute prohibits establishments from taking a cut of gambling proceeds, colloquially called a rake. Poker clubs believe they have circumvented this law by charging membership and “seat fees” for a player to spend time at a table. “The Texas gambling statute... does not prohibit the playing of poker as long as the house is not taking a cut, or receiving an economic benefit from the playing of the game. That’s the key” said attorney Chip Lewis, who represented two poker club defendants in the Houston case. “Our guys are not benefiting from the game.”

Local law enforcement officials, including Houston Police Chief Art Acevedo and Harris County District Attorney Kim Ogg, consider this business model to be the same as a rake, and thus illegal. State Rep. Geanie Morrison, Republican of Victoria, sent a letter to Attorney General Ken Paxton in January in the hopes of clarifying the issue. Morrison asked Paxton to issue a formal opinion on whether the seat and membership fee model constituted a rake. Paxton in July declined to issue an opinion, citing an ongoing lawsuit between two Austin-area poker clubs. He said the courts were the appropriate venue to resolve the question. Ogg was critical of Paxton’s decision, which she said sent a message to poker clubs that the attorney general had no objection to their business model and also discouraged county-level prosecutors from filing charges.

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