

MONTANA TAVERN TIMES

Shake-A-Days - April 1, 2012

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The dice game “shake-a-day” is one of the most common games found in liquor establishments, yet it is one of the most misunderstood and improperly operated games. In a shake-a-day game, a customer pays an amount of money to shake dice in an attempt to roll a certain predetermined combination simulating a poker hand. The pot of money continues to grow until the predetermined combination is achieved.

Any establishment licensed for the sale of alcoholic beverages to be consumed on the premises can offer a shake-a-day game. The key elements are as follows:

- A customer may shake for each pot only once each day (*not each shift*).
- The maximum wager is 50 cents to shake for each pot. If an establishment has more than one shake-a-day pot, they cannot require the customer to shake for all of the pots.
- Before a game begins, the establishment can limit the amount that will be won and use the remaining money played on that game to start the pot for the next game. This must be clearly noted to the customers in advance of playing.
- All money paid to play games must be paid out as winnings. The establishment cannot profit in any manner from the operation of a shake-a-day game.

An establishment may have as many shake-a-day pots as they want, but they cannot be tied to each other in any way. Each pot stands alone as its own game.

As mentioned previously, before a game begins, the establishment may limit the amount that can be won and use the remaining money played on that game to start the next pot, but in no case can money be removed from one pot and placed in another to even out the pots.

Example: An establishment *can* say the max winnings on a pot will be \$1,000. Then *when the pot is won*, any amount over \$1,000 will be used to start the next pot.

Example: An establishment *cannot* take a \$1,000 pot and split it into two \$500 pots.

If an establishment wants to add a brand new game in addition to the existing one (for example, have two pots instead of one) the new one must start with an empty pot.

It has come to our attention that there is concern about the potential threat of robbery or theft because of the size of the shake-a-day pots (many exceed \$1,000). The statute does not require that the shake-a-day prize be in a jar or in plain sight. It only requires that the prize be awarded to a customer rolling the winning combination. As long as the prize is accessible by any

employee present at the time the prize is won, the pot may be kept in a secure location in the establishment.

A related issue involves the practice of allowing the customer to win a drink or a six-pack based on rolling certain dice combinations. This is an acceptable practice, but it is considered a promotion offered by the establishment to the customers. Under the promotion rules, the drink costs are the establishments' responsibility. No money can be removed from a shake-a-day pot to reimburse the establishment for the promotion. The statute is clear that all money paid to play a shake-a-day game must be paid out as winnings. The establishment may not receive any portion of the proceeds.

For any questions or more information on shake-a-days, please call the Acting Investigation Bureau Chief at (406) 329-1476 or email gcd@mt.gov. (References: 23-5-160, MCA; 23.16.301, ARM)