

1984 S.C. Op. Atty. Gen. 106 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-44, 1984 WL 159851

Office of the Attorney General

State of South Carolina

Opinion No. 84-44

April 13, 1984

*1 Honorable Jean H. Toal
Member
House of Representatives
515 Blatt Building
Columbia, South Carolina 29201

Dear Representative Toal:

You have inquired in your letter of March 14, 1984, whether the manufacturers' council of the Greater Columbia Chamber of Commerce's 'Monte Carlo Night' is illegal. This office has previously concluded that 'Casino Night' operations violate several statutory provisions. Op. Atty. Gen., September 26, 1980, Edwin E. Evans, Assistant Attorney General [attached]. The Greater Columbia Chamber of Commerce in its letter suggests that its 'Monte Carlo Night' operation is legal for the following reasons:

1. The event is a private affair for members of the Manufacturers' Council and their spouses or guests.
2. The price of \$20.00 per person is being charged to underwrite the cost of the reception and dinner; it is in no way a fund raiser, but simply a break-even event.
3. Everyone in attendance will be provided the same amount of play money for the games, i.e., blackjack, poker, and has an equal chance of increasing his winnings for the auction.
4. Prizes for the auction are being donated by members of the Manufacturers' Council; none of the registration revenue will be utilized to purchase prizes.

We believe that these factors do not alter our prior conclusion that such functions are illegal.

The fact that the event is a private affair does not affect this conclusion. [Holliday v. Governor of the State of South Carolina et al.](#), 78 F.Supp. 918 (1948), aff'd, 35 U.S. 803 (1948), recognizes that it is the public policy of the State of South Carolina to suppress gambling and that gambling in all forms is illegal in South Carolina. South Carolina's many statutes and laws which prohibit lotteries and other forms of gambling generally make no distinction between gambling in public places or in private locations. See i.e., §§ 16-19-10, 16-19-40, 52-15-10 and 61-9-410 CODE OF LAWS OF SOUTH CAROLINA, 1976 (1983 Cum.Supp.); [City Council of Greenville v. Kemmis](#), 58 S.C. 427, 36 S.E. 727 (1900).¹ This office has previously concluded that most of the games played at casino nights are prohibited by these code provisions.

As to the proposition that the \$20.00 fee does not cover the cost of the prizes that the successful gamblers may win, this is likewise insignificant. While consideration is an element of gambling, the consideration may either be direct or indirect. [Darlington Theatres v. Coker](#), 190 S.C. 282, 2 S.E.2d 782 (1939). In Darlington, the Court condemned the linking of the sale of merchandise with the giving of prizes of money,

[w]here no price is paid for tickets, but in order to win a person must purchase something else, this would be included in the definition of a nature of a lottery.

2 S.E.2d *supra*, at 785. Although in the scheme presented the prizes may be donated, and if as asserted, the entry fee is allocable only to the dinner and cocktails; the payment of a fee is still a requisite for the opportunity to participate in the various games and thus in the opportunity to win a prize. Consideration is clearly present in the scheme under review. Moreover, certain South Carolina statutes addressed to gaming or gaming devices may be violated without the necessity of showing the presence of consideration or betting. *See, i.e.*, §§ 61-9-410(3), 52-15-10.

*2 In addition, we fail to see the significance of the fact that all participants receive the same amount of play money in return for their consideration. Play money is the medium of exchange to be used in the participation of the games. This format is of course present in most 'casino night' situations. By participating in the games the play money may be increased and thus the more successful participant enhances his opportunity to win.

For all of the foregoing reasons, in our view the opinion of this Office dated September 26, 1980, is applicable to the proposed 'Monte Carlo Night.'

Very truly yours,

Edwin E. Evans
Senior Assistant Attorney General

Footnotes

- 1 Lotteries held either 'publicly or privately' are prohibited. § 16-19-10. In addition, the particular provision prohibiting the playing of certain games involving cards and dice is applicable to public and private places. *City of Greenville v. Kemmis, supra*, construing the predecessor to § 16-19-410. Section 52-15-10 prohibits 'any person' from maintaining certain games, boards or devices, including roulette. Significantly as well, gambling or playing games of chance is prohibited upon locations licensed to sell beer. § 16-19-410. 1984 S.C. Op. Atty. Gen. 106 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-44, 1984 WL 159851