

1983 WL 181906 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 2, 1983

***1 Re: Raffles by Charitable Organizations**

Honorable John Drummond
Senator
Greenwood and McCormick Counties
The Senate, Suite 303
Gressette Office Building
Columbia, South Carolina 29202

Dear Senator Drummond:

Your letter of April 20, 1983, to Attorney General Medlock, has been referred to me for a response. I have reviewed your letter and a copy of the letter of Mrs. Burns which you enclosed. My response will be directed primarily at Mrs. Burns' letter and the points she raised.

Notwithstanding Mrs. Burns' contention that some non-profit organizations conduct raffles, I am satisfied that raffles, when conducted in the traditional manner, contain all the elements of a lottery. The three elements are (1) the offering of a prize (2) for payment of some consideration (3) with the winner determined by chance. [Darlington Theatres v. Coker, et al., 190 S.C. 282 \(1939\), 2 S.E.2d 782](#), very plainly defines the elements of a lottery, and the law is well settled. As you are aware, lotteries are prohibited under State law. [Section 16-19-10, CODE OF LAWS OF SOUTH CAROLINA, 1976](#). The penalty for violation of [§ 16-19-10](#), includes a fine of \$1,000.00 and a term of imprisonment for one year. Additionally, the purchaser of lottery tickets is liable under [§ 16-19-20, CODE](#), for a fine of \$100.00. The present laws provide no exception for lotteries conducted by or on behalf of charitable organizations. There is an old case, [Oliveros v. Henderson, 116 S.C. 77 \(1921\), 106 S.E. 855](#) which holds, in the context of the Sunday work laws, that you look at the nature of the work, not the disposition of the proceeds.

It does not appear that a raffle may be legitimized by merely referring to the consideration as a 'donation'. While the issue has not been specifically addressed by our Supreme Court, Courts in other jurisdictions have recognized that the mere characterization of consideration as a 'donation' does not necessarily avoid the laws which prohibit lotteries. The Courts have looked to the actual facts of the case to determine if consideration, by whatever name, exists. Our Court has recognized that even an indirect consideration is sufficient to sustain violation of the statute. [Rountree v. Ingle, 94 S.C. 231, 77 S.E. 931 \(1913\)](#).

I trust this letter responds adequately to your questions. I did not interpret your letter as a request for a formal opinion, and this letter is not intended as such. Should you desire a formal opinion as to the legality of raffles, I am certain that Attorney General Medlock will accommodate your wishes.

If I can be of further assistance, or if you have any further questions, please feel free to contact me.

With kind regards, I am
Very truly yours,

William K. Moore
Assistant Attorney General

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