

1981 WL 157791 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 22, 1981

*1 Mr. T. H. Dawson
Captain
Special Investigations Division
Charleston County Police Department
3505 Pinehaven Drive
Charleston, South Carolina 29405

Dear Captain Dawson:

In a letter to this office you raised several questions concerning the operation of pinball machines. Specifically, you asked:

- (1) Is 'paying off' or refunding a player for accrued games on a pinball machine legal?
- (2) Does the law recognize the practice of claiming 'game refund' to the customer?
- (3) At the time of the referenced payoff, is it proper to confiscate all the money within the machine which has been wagered?

I am assuming that you are referencing a situation where a pinball machine registers extra games and an individual converts such extra games to cash payoffs.

[Section 52-15-10, Code of Laws of South Carolina, 1976](#), states that:

(i)y shall be unlawful for any person to keep on his premises or operate or permit to be kept on his premises or operated within this State any vending or slot machine, punch board, or other device pertaining to games of chance of whatever name or kind, including such machines, boards or other devices that display different pictures, words or symbols, at different plays or different numbers, whether in words or figures or, which deposit tokens or coins at irregular intervals or in varying numbers to the player or in the machine. But the provisions of this section shall not extend to coin-operated nonpayout pin tables with free play feature or to automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value for each coin deposited therein and in which there is no element of chance.

Any person violating the provisions of this section shall be subject to a fine of not more than five hundred dollars or imprisonment in the State Penitentiary or upon the public works of the county wherein the offense is committed for a period of not more than one year or both fine and imprisonment, in the discretion of the court.

Therefore, certain vending or slot machines or other such similar devices which fail to give a certain uniform and fair return for each coin deposited therein and which involve the element of chance are prohibited and subject to confiscation. [Harvie v. Heise, 150 S.C. 277, 148 S.E. 66 \(1929\)](#). While various types of machines have been declared to be slot machines and thus prohibited by the above section, it is specifically provided that pinball machines with free play features are not illegal. A pinball machine was described by the South Carolina Supreme Court in [State v. Langley, 115 S.E. 2d 308 at 309-310 \(1960\)](#) as a machine in which: . . . the player, after depositing a coin in the slot, puts balls in play by pulling a spring activated plunger on a tilted table upon which there are bumpers which deflect balls in various directions through various lanes, producing a score registered from contact with different bumpers.

*2 As to your first question concerning whether ‘paying off’ on a pinball machine is illegal, it has consistently been the opinion of this office that the practice of providing cash refunds to a pinball player in lieu of extra games constitutes an illegal lottery within the meaning of [Section 16-19-10, Code of Laws of South Carolina, 1976](#). (See enclosed opinion dated May 23, 1978.)

As to your second question concerning whether the practice of claiming ‘game refund’ to a customer is legal, I assume that the practice you are referencing is tantamount to the practice of refunding a player for accrued games which was referenced in your first question. Again, while a pinball machine with a free play feature is not pursuant to [Section 52-15-10, supra](#), illegal, as stated above, the practice of an individual giving a cash payoff to a customer of a pinball machine in lieu of a free game is illegal inasmuch as it constitutes a lottery.

In your third question, you stated that at the time of the payoff you consider the machine to be a gambling device and therefore confiscate all the money within the machine. You questioned whether such a practice is authorized. The South Carolina Supreme Court in [Alexander Amusement Company v. State, 246 S.C. 530, 144 S.E. 2d 718 \(1965\)](#), ruled that a pinball machine admittedly used as a gambling device was not subject to confiscation because it was not declared to be contraband by [Section 52-15-10, supra](#). However, [Section 16-19-80, Code of Laws of South Carolina, 1976](#), provides that monies staked during games of chance are subject to forfeiture. Such section states:

(a)ll and every sum or sums of money staked, betted or pending on the event of any such game or games of aforesaid are hereby declared to be forfeited.

This Office in an earlier opinion dated August 20, 1973, a copy of which is enclosed, stated that any money found in a slot machine or other gambling device is subject to forfeiture. Therefore, under the appropriate circumstances, in a situation where a cash payoff is made to an individual for accrued games on a pinball machine the money within the machine which was wagered could be confiscated.

If there are any questions concerning the above, please contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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