

1980 WL 120899 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 26, 1980

*1 Mr. James H. Harrison
Legal Counsel
South Carolina Alcoholic Beverage
Control Commission
1205 Pendleton Street
Columbia, South Carolina, 29201

Dear Mr. Harrison:

You have recently asked the opinion of this Office as to whether the following practice constitutes gambling which would be prohibited on a location licensed by the Commission under § 61-9-410(3) of the Code of Laws of South Carolina (1976), as amended. You have stated that an organization or convention leases a portion of a licensed location for a 'Casino Night' function. Patrons purchase chips directly or indirectly through a registration fee or cover charge. Patrons participate in such activities as blackjack, poker and roulette. At the close of the evening an auction is held in which the patrons bid on prizes of some value with the chips they have accumulated throughout the evening. The highest bidder may purchase a prize.

Gambling has been defined as the risking of any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance or the operation of a gambling device. 38 Am.Jur.2d, GAMBLING, § 1. The scheme which you describe appears to constitute gambling, which would be prohibited by § 61-9-410(3)¹ on premises licensed by the Alcoholic Beverage Control Commission.

Additionally, statutes which are in pari materia must be construed together. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970).

Therefore, § 61-9-410(3) and Title 16, Chapter 19, § 16-19-10 et seq. should be read in harmony. The activities you described are forbidden by this chapter. § 16-19-10 forbids the setting up of lotteries, which have been defined as having the following three elements: (1) the offering of a prize, (2) by a method involving chance and (3) for consideration paid by the participants for the opportunity to win the prize. Darlington Theatres, Inc. v. Coker, 190 S.C. 282, 2 S.E.2d 782 (1939); 29 A.L.R.2d 888 Annot. 'Gambling Laws-Promotional Scheme'. The elements of a lottery appear to be present in the scheme described. Additionally, § 16-19-40 makes unlawful the playing of 'any game with cards or dice' at any location used for the retailing of spirituous liquors. The described activities would be unlawful under these sections as well.²

In conclusion, it is the opinion of this Office that the scheme described constitutes 'gambling' and, thus, would be prohibited in a location licensed by the Commission by § 61-9-410(3) and by § 16-19-10 et seq., Code of Laws of South Carolina (1976), as amended.

Very truly yours,

Edwin E. Evans
Assistant Attorney General

Footnotes

¹ Said section provides, among other things, that:

[no holder of a permit authorizing the sale of beer or wine or any servant, agent or employee of the permittee shall knowingly . . .

(3) Permit gambling or games of chance.

2 In addition, § 16-19-130 prohibits any person from registering a bet in a contest involving skill.

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