

1978 S.C. Op. Atty. Gen. 226 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-201, 1978 WL 22669

Office of the Attorney General

State of South Carolina

Opinion No. 78-201

December 5, 1978

***1 SUBJECT: Vice Activities, Myrtle Beach**

A coin-operated device in which skill and judgment are non-dominant factors and which gives no uniform and fair return for every coin deposited constitutes an illegal gambling device as proscribed by [Section 52-15-10 of the 1976 Code of Laws](#).

TO: J. P. Strom

Chief

South Carolina Law Enforcement Division

QUESTION:

Does a coin-operated device in which skill and judgment are non-dominant factors and which gives no uniform and fair return for every coin deposited constitute an illegal gambling device as proscribed by [Section 52-15-10 of the 1976 Code of Laws](#)?

STATUTES AND CASES:

[Section 52-15-10 of the 1976 Code](#); [Section 52-15-20 of the 1976 Code](#); 1973 Op. Atty. Gen. 3544; 1978 Op. Atty. Gen. (March 17, 1978 by C. Tolbert Goolsby, Jr.); [Griste v. Burch](#), 112 S.C. 369, 99 S.E. 703 (1919); and July 3, 1978 Report by Lt. Ronald W. Cook.

DISCUSSION:

You have asked whether certain machines under investigation in SLED Case No. 78-498 constitute illegal gambling devices subject to seizure under state law. [Section 52-15-10 of the 1976 Code of Laws](#) makes it 'unlawful for any person to keep on his premises . . . any . . . device pertaining to games of chance . . . including such machines . . . which deposit tokens or coins at irregular intervals or in varying numbers to the player . . .'. For the statute to apply, therefore, it must be established that the coin-operated device or machine pertains to a 'game of chance' from which a non-uniform return is given.

Previous opinions of this office relating to illegal lotteries, specifically pinball machines, state that so long as skill and judgment are non-dominant factors in winning, the coin-operated device is one of chance. 1973 Op. Atty. Gen. 3544; 1978 Op. Atty. Gen. (March 17, 1978 by C. Tolbert Goolsby, Jr.). Applying that rationale to 'any device pertaining to games of chance' as used in the gambling device statute, the inquiry first turns to whether skill and judgment are non-dominant factors in winning. Lt. Cook's Report of July 3, 1978 ('Vice Activities, Myrtle Beach') describes how the coin-operated device functions:

Coins in the denomination of \$.25 are deposited through an adjustable slot. A quarter then slides down a track and is directed in its fall by several pins. It is then pushed into numerous other coins which are laying on a shelf by a slide which moves back and forth. After the slide is successful in pushing the quarter or quarters from this level, it then falls on a

rotating cylinder and then falls to another level where coins are laying, and the process is repeated with the exception that on this level, slots are cut in the slides and quarters pushed into this area are retained as profit by the house. Should the pressure force quarters to fall over the front edge of this level, they are diverted into a container and pass over an electronic trigger which releases a token which falls into a slot to be retrieved by the player.

*2 Lt. Cook's report clearly establishes that the player of the coin-operated device can not exercise any degree of skill or judgment in winning. Once the quarter is deposited, the probability of the player's winning is totally beyond his control and entirely based on chance, therefore skill and judgment is not a dominant factor. Consequently, the coin-operated device is one which pertains to a 'game of chance'.

Now, our inquiry turns to the second element: does the device give a 'uniform and fair return' for every coin-deposited. Referring again to Lt. Cook's report, it is evident that the coin-operated device does not give a 'uniform and fair return' for every coin deposited. For each coin deposited, the player may receive one or several redeemable tokens or no token at all. Clearly, the return is non-uniform. [Griste v. Burch](#), 112 S.C. 369, 99 S.E. 703 (1919) [Harvie v. Heise](#), 150 S.C. 277, 148 S.E. 66 (1929).

CONCLUSION:

It is therefore the opinion of this office that a coin-operated device in which skill and judgment are non-dominant factors and gives no uniform and fair return for every coin deposited constitutes an illegal gambling device as proscribed by [Section 52-15-10 of the 1976 Code](#) of Laws and is subject to seizure and destruction pursuant to [Section 52-15-10 of the 1976 Code](#) of Laws.

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