

1974 WL 28032 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 13, 1974

***1 Re: Pool rooms, pinball machines**

Chief J. C. Bentley
Chief of Police
P. O. Box 162
Jackson, South Carolina 29831

Dear Chief Bentley:

You have asked this office for an opinion relative to the following two inquiries:

1. Is a business establishment that operates for profit, among other things, three pool tables subject to the provisions of Section 5-501(6) of the South Carolina Code of Laws (1962)?
2. Can a municipality via ordinance prohibit pinball machines?

Section 5-501(6) is applicable only to a 'billiard room,' which term is defined in Section 5-501(1) as 'any room, hall, building or place kept for the purpose of operating billiard or pocket billiard tables for the purpose of permitting games to be played thereon for profit.' In [Melody Music Co. v. McLeod](#), 248 S.C. 545, 151 S.E.2d 749 (1966), our Court held that an establishment is not within the contemplation of Section 5-501(1) unless the operation of pool tables for profit is its 'principal business,' which means that such is 'the chief, leading, main, most considerable or important activity of the business.' 1967 Op. Att'y. Gen. 13.

Quite obviously, with the limited information you have provided, this office is in no position to make a determination relative to the particular business establishment with which you are concerned. Nor is there any yardstick, in addition to the guides set forth hereinabove, that can be prescribed as controlling the kind and nature of the 'principal business.' Such would be dependent upon all of the facts and circumstances surrounding the business in question; for example, gross receipts, i.e., the receipts from the pool tables as opposed to the total receipts of the business, would be a material, though not necessarily controlling, factor to be taken into consideration.

The second question you have raised has been previously answered by this office on two occasions in the negative. 1965 Op. Att'y Gen. 24; 1952-53 Op. Att'y Gen. 169. The reasoning of these opinions may be succinctly stated as follows: Because pinball machines with free play feature are authorized by State law, a municipal ordinance completely prohibiting same is invalid.

If this office can be of any further assistance to you, please feel free to call upon us.

Very truly yours,

Sidney S. Riggs, III
Staff Attorney

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