

7349 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

July 25, 2002

Robert M. Stewart, Chief
South Carolina Law Enforcement Division
Post Office Box 21398
Columbia, South Carolina 29221-1398

Re: "Chess Challenge" Video Gaming Machine Determined to be Illegal *Per Se*

Dear Chief Stewart:

As you know, by letter dated April 23, 2002, this Office provided an opinion to Representative Shirley Hinson regarding the Chess Challenge video gaming machine. In that letter, We opined that "[g]iven the specific set up of the machine we reviewed ... the machine ... appears not to fall within the prohibitions of Section 12-21-2710 and thus would not be subject to seizure." In addition, we advised "... that relatively minor changes could be made in this game which would transform the machine into an illegal *per se* game of chance [which would make] the analysis ... inapplicable." We warned that "should it become known that the machines which are ultimately distributed in South Carolina have been so altered or made capable of such alteration, this Office will advise law enforcement that the machines are subject to immediate seizure pursuant to S.C. Code Ann. Section 12-21-2712."

Now, unfortunately, the alterations to the machine contemplated in the April 23, 2002 opinion have come to pass. Subsequent to the issuing of the April 23 opinion, agents with the State Law Enforcement Division seized a Chess Challenge machine as the result of a violation of South Carolina's gambling laws. I have been able to review operation of the seized machine with SLED Captain Stacy Drakeford. It is clear that both the manner and mode of operation of the Chess Challenge machine have been altered, thus rendering this machine an illegal game of chance.

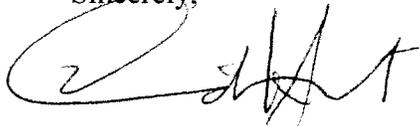
The operation of the seized Chess Challenge machine can be described briefly as follows: The machine is activated by pressing a start button. The middle of the video screen displays images [various animated chess characters] that rotate in four (4) separate columns. The player can stop the columns all at the same time by pressing a single button or the player can stop each column individually by pressing a button which corresponds to the particular column. Once all columns have been stopped, the machine then triggers a carousel or roulette-style feature which forms a border around the screen. The border consists of panels containing the same images as may appear in the columns in the middle of the screen. The machine will eventually stop and will illuminate a

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panel containing a chess-type animated character. If a combination of images matches in the columns and/or the border, the operator receives additional credits which allow for further play. Although the player may have some ability to control the length of time the images rotate in the columns, the images spin in such a manner that skill or manual dexterity plays no part in determining the combination of characters which appear. Further, the rotation and subsequent cessation of the carousel or roulette-style feature is totally beyond the control of the player.

Clearly, chance rather than skill determines the outcome of the seized Chess Challenge video machine. It is further clear that the machine which was the subject of the April 23, 2002 opinion is capable of being easily transformed into the seized Chess Challenge machine. Therefore, as this Office earlier warned, the analysis employed in the April 23, 2002 opinion is now inapplicable. Accordingly, this Office is compelled to rescind the April 23, 2002 opinion. Thus, we advise that it is the opinion of this Office that the Chess Challenge video machine is an illegal game of chance, prohibited as contraband *per se* by S.C. Code Ann. §12-21-2710. Our Supreme Court has clearly stated that such machines are inherently illegal and subject to immediate confiscation. State v. 192 Coin-Operated Video Games, 338 S.C. 176, 525 S.E.2d 872 (2000). As such, Chess Challenge machines are subject to the seizure provisions of Section 12-21-2712.

Sincerely,



David K. Avant
Assistant Attorney General

cc: The Honorable Shirley R. Hinson
Member, House of Representatives
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