

6803 Liberty



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

October 27, 1999

The Honorable Glenn G. Reese  
Senator, District No. 11  
117 Sun Valley Drive  
Boiling Springs, S. C. 29316

**Re: Informal Opinion**

Dear Senator Reese:

Thank you for your letter, dated September 21, 1999, to Attorney General Condon, which has been referred to me for a response. You have multiple questions concerning the regulations of a video poker establishment.

Because your questions are more properly directed to the Department of Revenue, we are unable to advise you in this matter. It is the policy of this Office not to issue an opinion if another agency which has jurisdiction over the matter has already ruled or advised on the matter. In cases such as this, where an administrative citation has been issued by an agency and there is an administrative procedure and remedy available, this Office will not attempt by issuing an opinion to supersede the administrative authority or discretion of any officer, agency, or public body. Griggs v. Hodge, 229 S.C. 245, 92 S.E.2d 654 (1956). Additionally, state law gives considerable deference to an agency's interpretation of its own regulations and the courts generally do not "second guess" such interpretation unless clearly erroneous. Thus, this Office does not second guess, by the issuance of an opinion, an agency's interpretation of its own regulation and will leave such review to the courts. Op. Atty. Gen. Sept. 12, 1985. Therefore, the Department of Revenue is the appropriate authority to rule on the questions presented in your letter and advise you on this matter. If the case which gave rise to the Notice of Intent to Revoke is on appeal, an administrative law judge may decide one or more of the questions presented. If, however, the law is unclear, or there is no South Carolina law on the subject, legislative clarification or a declaratory judgement by the courts should be sought. See S. C. Code Ann. § 15-53-10 et seq.; Parker v. Bates, 216 S.C. 52, 56 S.E.2d 723 (1950).

*Selfquest Letter*

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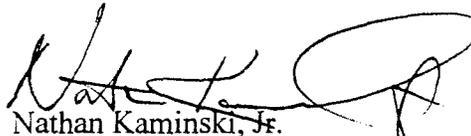
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It is, furthermore, the policy of this Office not to issue an opinion on any question which has or will become moot. Mathis v. S.C. Highway Dept., 260 S.C. 344, 195 S.E.2d 713 (1973); Op. Atty. Gen. Sept. 19, 1983. The recent ruling of the South Carolina Supreme Court in Joytime Distributers and Amusement Co. v. State upheld the severability clause of Act No. 125, 1999 S.C. Acts. This ruling effectively renders moot, as of June 30, 2000, many of these questions concerning the regulation of video gaming.

This letter is an informal opinion only. It has been written by a designated senior assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,

  
Nathan Kaminski, Jr.  
Senior Assistant Attorney General