ALAN WILSON
ATTORNEY GENERAL

June 14, 2013

The Honorable Barry J. Barnette
Solicitor, Seventh Judicial Circuit
180 Magnolia Street
Spartanburg, South Carolina 29306

Dear Solicitor Barnette:

Attorney General Alan Wilson has referred your letter of March 27, 2013 to the Opinions section for a response. The following is our understanding of your question presented and the opinion of this Office concerning the issue based on that understanding.

**Issues:** Do the 2013 amendments to Sections 61-2-180 and 61-4-580 of the South Carolina Code of Laws mean:

1) Any place licensed to serve alcohol may now have bingo, casino nights and poker nights as long as they are for a charitable purpose?
2) May holders of beer and wine permits have game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with specified requirements contained in subsection 3 [of S.C. Code Section 61-4-580] as long as the game or sweepstakes does not use a "poker machine?"

**Law/Analysis:**
**The 2013 amendments to South Carolina Code Sections 61-2-180 and 61-4-580 do not substantively change the law, they merely clarified existing South Carolina law, indicating that Sections 61-2-180 and 61-4-580 are not exceptions or limitations to Section 12-21-2710 (or other sections of the law concerning gambling or games of chance). Our position, which is consistent with the jurisprudence in this State, is that South Carolina law was clear and unambiguous before this amendment. Therefore, the same principles that applied under the law before the amendment apply after it.**[1]

As a background regarding statutory interpretation, the cardinal rule of statutory construction is to ascertain the intent of the legislature and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the legislature controls the literal meaning of a statute. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813 (1942). The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. Id. An entire statute's interpretation must be "practical, reasonable, and fair" and consistent with the purpose, plan and reasoning behind its making. Id. at 816. Statutes are to be

[1] Please note this Opinion is written based on the current law. It does not address any pending or hypothetical future legislation.

interpreted with a "sensible construction," and a "literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose." U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). Like a court, this Office looks at the plain meaning of the words, rather than analyzing statutes within the same subject matter when the meaning of the statute appears to be clear and unambiguous. Sloan v. SC Board of Physical Therapy Exam., 370 S.C. 452, 636 S.E.2d 598 (2006). The dominant factor concerning statutory construction is the intent of the legislature, not the language used. Spartanburg Sanitary Sewer Dist. v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984) (citing Abell v. Bell, 229 S.C. 1, 91 S.E.2d 548 (1956)).

The legislative intent in passing the amendments was clearly outlined, as quoted at the beginning of the amendment:

> AN ACT TO AMEND SECTION 61-2-180, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BINGO, RAFFLES, AND OTHER SPECIAL EVENTS, SO AS TO CLARIFY THAT THIS SECTION IS NOT AN EXCEPTION OR LIMITATION TO ACTIVITIES, DEVICES, OR MACHINES THAT ARE PROHIBITED BY SECTION 12-21-2710 OR OTHER PROVISIONS THAT PROHIBIT GAMBLING; AND TO AMEND SECTION 61-4-580, RELATING TO GAME PROMOTIONS ALLOWED BY HOLDERS OF PERMITS AUTHORIZING THE SALE OF BEER OR WINE, SO AS TO CLARIFY THAT THIS SECTION DOES NOT AUTHORIZE THE USE OF AN ACTIVITY, DEVICE, OR MACHINE THAT IS PROHIBITED BY SECTION 12-21-2710 OR BY OTHER PROVISIONS THAT PROHIBIT GAMBLING.

2013 S.C. Act 5 (S.B. 3).

South Carolina Code of Laws Section 61-2-180 (1976 Code, as amended) is titled "Bingo, special events or activities not an exception to gambling and other offenses" and was amended in 2013. It states:

> A person or organization licensed by the department under this title may hold and advertise special events such as bingo or other similar activities intended to raise money for charitable purposes. This section does not affect the requirements for obtaining a bingo license from the department. **A special event or activity that is authorized pursuant to this section is not an exception or limitation to Section 12-21-2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited.**

(emphasis added). South Carolina Code Section 61-4-580, which was also amended in 2013, provides that:

> No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder's permit:
> (1) sell beer or wine to a person under twenty-one years of age;
> (2) sell beer or wine to an intoxicated person;
> (3) permit gambling or games of chance except game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with the following:

> (a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service, or to enhance the brand or image of a supplier of consumer products or services;
> (b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize; and
> (c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation; and
> **(d) this subsection is not an exemption or limitation to Section 12-21-2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited;**
> (4) permit lewd, immoral, or improper entertainment, conduct, or practices. This includes, but is not limited to, entertainment, conduct, or practices where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering;
> (5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State; or
> (6) sell, offer for sale, or possess any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the law of this State; or
> (7) conduct, operate, organize, promote, advertise, run, or participate in a "drinking contest" or "drinking game". For purposes of this item, "drinking contest" or "drinking game" includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of beer or wine by participants at extraordinary speed or in increased quantities or in more potent form. "Drinking contest" or "drinking game" does not include a contest, game, event, or endeavor in which beer or wine is not used or consumed by participants as part of the contest, game, event, or endeavor, but instead is used solely as a reward or prize. Selling beer or wine in the regular course of business is not considered a violation of this section; or
> (8) a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit.

(emphasis added) (hereinafter "§ 61-4-580"). South Carolina Code Section 12-21-2710, which is referenced in both of the above statutes, states:

> It is unlawful for any person to keep on his premises or operate or permit to be kept on his premises or operated within this State any vending or slot machine, or any video game machine with a free play feature operated by a slot in which is deposited a coin or thing of value, or other device operated by a slot in which is deposited a coin or thing of value for the play of poker, blackjack, keno, lotto, bingo, or craps, or any machine or device licensed pursuant to Section 12-21-2720 and used for gambling or any punch board, pull board, or other device pertaining to games of chance of whatever name or kind, including those machines, boards, or other devices that display different pictures, words, or symbols, at different plays or different numbers, whether in words or figures or, which deposit tokens or coins at regular intervals or in varying numbers to the player or in the machine, but the provisions of this section do not extend to coin-operated nonpayout pin tables, in-line pin games, or to automatic

> weighing, measuring, musical, and vending machines which are constructed as to give a certain uniform and fair return in value for each coin deposited and in which there is no element of chance.
>
> Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for a period of not more than one year, or both.

(hereinafter "§ 12-21-2710"). Since we have reviewed the law listed in your questions, let us now address the substance of your questions.

**1) Do the 2013 amendments to Sections 61-2-180 and 61-4-580 of the South Carolina Code of Laws mean any place licensed to serve alcohol may now have bingo, casino nights and poker nights as long as they are for a charitable purpose?**

We will examine previous opinions by this Office concerning your questions, as they still apply after the 2013 amendments. Bingo in South Carolina is only authorized pursuant to a Constitutional amendment in Article XVII, Section 7 of the South Carolina Constitution, which states:

> ...[t]he game of bingo, when conducted by charitable, religious, or fraternal organizations exempt from federal income taxation or when conducted at recognized annual state and county fairs, is not considered a lottery prohibited by this section.

The Constitutional provision has not changed by the 2013 amendments to the statutes. Thus, to answer your question, **bingo would not be authorized simply for a charitable purpose**. See Op. S.C. Atty. Gen., 2004 WL 1557095 (June 23, 2004). **The game of bingo would have to be conducted by charitable, religious, or fraternal organizations (or else be held at recognized annual state and county fairs),** pursuant to Article XVII, Section 7 of the South Carolina Constitution (as quoted above), **and an entity must be licensed by the Department of Revenue in order to conduct a game of bingo.** Op. S.C. Atty. Gen., 2004 WL 1557095 (June 23, 2004) (citing S.C. Code § 61-2-180). See also S.C. Code § 12-21-3930ff and Fraternal Order of Police v. S.C. Dept. of Revenue, 352 S.C. 420, 574 S.E.2d 717 (2002). Additionally, the Department of Revenue has issued numerous revenue rulings on questions relating to bingo. Those are available under the BINGO tab at www.sctax.org .

In regards to casino and poker nights, this Office again emphasizes its previous opinions. As we previously stated:

> S.C. Code Ann. § 16-19-10 prohibits lotteries utilizing cards. That provision states "(w)hoever shall publicly or privately erect, set up, or expose to be played or drawn thrown at any lottery... by any undertaking whatsoever, in the nature of a lottery, by way of chances, either by dice, lots, cards, balls, numbers, figures, or tickets... is guilty of a misdemeanor... ." **As recognized in the prior opinion [dated May 4, 2005], there is no exception for lotteries conducted by or on behalf of charitable organizations.**
>
> It was also recognized in the May 4 [2005] opinion that "... S.C. Code Ann. § 16-19-10 prohibits any person from playing '...at any tavern, inn, store for the retailing of spirituous liquors or in any house used as a place of gaming, barn, kitchen, stable or

> other outhouse, street, highway, open wood, race field, or open place at (a) any game with cards or dice....['] (emphasis added). This Office has consistently concluded that the game of poker is prohibited even when conducted by charitable organizations during events such as a "Monte Carlo night" violate the various gambling statutes, including § 16-19-40. The [April 13,]1984 opinion reasoned cited Holiday v. Governor of the State of South Carolina et al., 78 F.Supp. 918 (1948), aff'd. 335 U.S. 803 (1948) which 'recognizes that **it is the public policy of the State of South Carolina to suppress gambling and that gambling in all forms is illegal in South Carolina**.'"

(emphasis added). Op. S.C. Atty. Gen., 2005 WL 1609286 (June 7, 2005) (citing Ops. S.C. Atty. Gen., 2005 WL 1383352 (May 4, 2005); 1984 WL 159851 (April 13, 1984)). Additionally, we previously opined that **even a casino night where no prizes are given would likely be illegal under South Carolina Code Section 16-19-40**, which prohibits people from playing games involving cards or dice, regardless of whether a prize is given. Op. S.C. Atty. Gen., 2011 WL 782313 (February 18, 2011) (citing Op. S.C. Atty. Gen., 2007 WL 1302777 (April 23, 2007)). South Carolina Code Section 16-19-40 states:

> If any person shall play at any tavern, inn, store for the retailing of spirituous liquors or in any house used as a place of gaming, barn, kitchen, stable or other outhouse, street, highway, open wood, race field or open place at (a) **any game with cards or dice,** (b) any gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (c) any roley-poley table, (d) rouge et noir, (e) any faro bank (f) any other table or bank of the same or the like kind under any denomination whatsoever or (g) any machine or device licensed pursuant to Section 12-21-2720 and used for gambling purposes, except the games of billiards, bowls, backgammon, chess, draughts, or whist when there is no betting on any such game of billiards, bowls, backgammon, chess, draughts, or whist **or shall bet on the sides or hands of such as do game, upon being convicted thereof, before any magistrate, shall be imprisoned for a period of not over thirty days or fined not over one hundred dollars,** and every person so keeping such tavern, inn, retail store, public place, or house used as a place for gaming or such other house shall, upon being convicted thereof, upon indictment, be imprisoned for a period not exceeding twelve months and forfeit a sum not exceeding two thousand dollars, for each and every offense.

The 2011 opinion also went on to state that we believe a court could find a casino night to be an illegal lottery under Article XVII, Section 7 of the South Carolina Constitution based on the three part test for a lottery. Op. S.C. Atty. Gen., 2011 WL 782313 (February 18, 2011). See also Ops. S.C. Atty. Gen., 1997 WL 323779 (May 23, 1997) (opining that a casino night was illegal even where no prizes were given); 1980 WL 120899 (September 26, 1980) (opining that a casino night would be gambling); Town of Mt. Pleasant v. Chimento, 401 S.C. 522, 737 S.E.2d 830 (November 21, 2012). This Office has also previously opined that a poker challenge even where no prizes are given and admission is a donation to charity would still be illegal gambling and an illegal game of cards pursuant to S.C. Code § § 16-19-40, 16-19-50, 16-19-130. Op. S.C. Atty. Gen., 2007 WL 1302777 (April 23, 2007). **Therefore, it is likely a court would find both casino nights and poker nights would still have the same prohibitions as before the 2013 amendments.**

**2) May holders of beer and wine permits have game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with specified requirements contained in subsection 3 [of S.C. Code Section 61-4-580] as long as the game or sweepstakes does not use a "poker machine?"**

In order to answer this question, a history of §§ 61-4-580 and 12-21-2710 is instructive. In 1996, video poker was legal and was a multi-billion dollar industry in South Carolina. In that year, § 61-4-580 was codified as part of the South Carolina Alcoholic Beverage Control Act. 1996 S.C. Act. No. 415, § 1. At that time, § 61-4-580(3) made it illegal for a beer and wine permit holder to "permit gambling or games of chance." Upon the enactment of this law, the South Carolina Department of Revenue's position was that all gambling and games of chance, regardless of whether the conduct was otherwise legal under state law, was prohibited on premises licensed for the sale of beer and wine. This absolute prohibition made selling any product promoted by a sweepstakes using a game of chance, regardless of whether or not it was illegal under state law, a violation of a beer and wine permit. "Admin. Pronouncement: Gambling at Locations Licensed for the Sale of Beer or Wine (ABC)", S.C. Information Letter 98-10 (S.C. Dept. of Revenue June 30, 1998).

Thereafter, on June 1, 1999, § 61-4-580(3) was amended to its present form and carved out an exception to the blanket prohibition of "gambling and games of chance." The 1999 amendment allowed certain legitimate promotions and sweepstakes where specific requirements were met which did not otherwise violate South Carolina law. 1999 S.C. Act. No. 52, § 1. Again, prior to the amendment, § 61-4-580(3) prohibited a beer and wine permit holder from allowing any or all "gambling or games of chance", including otherwise legal conduct. Accordingly, the title of the Act amending § 61-4-580 states that it relates to prohibited acts in an establishment licensed to sell and beer and wine and exempts promotional games from the then-current prohibition on "gambling or games of chance." The title merely spells out what the amendment accomplished: the creation of an exemption from the previous absolute prohibition on all "gambling or games of chance" contained in § 61-4-580(3), not a broad exception to all of the laws pertaining to gambling or games of chance in South Carolina and certainly not an exception specific to the prohibitions of § 12-21-2710. Notably, § 61-4-580(5), whose language has appeared in the statute since its inception, made clear that permit holders were still absolutely prohibited from engaging in any act "which constitutes a crime under the laws of this State", a prohibition that would clearly include any and all violations of § 12-21-2710 or any and all violation of any of South Carolina's other criminal laws.

Subsequently, on July 2, 1999, the General Assembly passed another law which made video poker illegal as of July 1, 2000, unless the voters in South Carolina chose to keep it. 1999 S.C. Act. No. 125. The South Carolina Supreme Court struck down this voter referendum as an unconstitutional delegation of legislative power but kept the ban on machines. Joytime Distributors and Amusement Co., Inc. v. State, 338 S.C. 634, 528 S.E.2d 647 (1999). This Act also operated to significantly strengthen § 12-21-2710 by removing the exception for video gaming machines and adding prohibitions on video game machines with a "free play" feature operated by a slot in which is deposited a coin or thing of value and devices operated by a slot in which is deposited a coin or thing of value for the play of poker, blackjack, keno, lotto, bingo, or craps. In Westside Quik Shop v. Stewart, the Supreme Court described passage of Act 125 and its purpose as follows:

> [f]inally in an extra session called by the Governor in June 1999, S.C. Act No. 125 providing for a November referendum to be held statewide to decide the fate of video gaming. Voters would be asked whether cash payouts for video gaming machines should continue to be allowed after June 30, 2000. If voters answered "no," Part 1 of the Act

> would become effective July 1, 2000. This part of the Act repeals § 16-19-60, which allows nonmachine cash payouts, and amends S.C. Code Ann. § 12-21-2710 (2000) to remove the exception for video gaming machines, thereby rendering the possession of these machines illegal .... Further, under S.C. Code Ann. § 12-21-2712 (2000), these machines are then subject to forfeiture and destruction by the State.... Before the referendum was held, an action was brought challenging its constitutionality. After taking the case in our original jurisdiction, in October 1999, this Court struck down the referendum, but severed it from the remaining parts of the Act. Specifically, we found Part I, which bans the possession or operation of these machines, to be a free standing legislative enactment and therefore valid. Joytime Distrib. and Amusement Co. v. State, 338 S.C. 364, 528 S.E.2d 647 (1999). Accordingly, on July 1 [2000], under § 12-21-2710 and -2712, these machines will become contraband subject to forfeiture and destruction regardless of their use or operability.

341 S.C. 297, 301-2, 534 S.E.2d 270, 272 (2000) *overruled on other grounds by* Byrd v. City of Hartsville, 365 S.C. 650, 620 S.E.2d 76 (2005).

Even more important to this analysis are the several appellate court decisions subsequent to § 61-4-580(3)'s enactment, which all serve strongly to reinforce the virtually outright ban that Act 125 placed upon all gaming machines and devices pertaining to games of chance. These decisions include Joytime and Westside, as discussed above. Moreover, State v. 192 Coin-Operated Video Game Machines, 338 S.C. 176, 188, 525 S.E.2d 872, 879 (2000) ("The plain language of the statute [§ 12-21-2710] makes clear the legislature's intent to outlaw mere possession" of gaming machines) and Mims Amusement Co. v. SLED, 366, S.C. 141, 154, 621 S.E.2d 344, 350 (2005) ("Section 12-21-2710 exempts from its provisions legal vending machines which give a uniform and fair return in value for each coin deposited and in which there is no element of chance.") further demonstrate the sweeping impact of Act 125. As does Allendale Co. Sheriff's Dept. v. Two Chess Challenge II, 361 S.C. 581, 587, 606 S.E.2d 471, 474 (2004) ("Because video machines may be manipulated so as to change their nature from lawful to unlawful, law enforcement may, based on probable cause, seize the machines in question once again."). And Union Co. Sheriff's Office v. Henderson, 395 S.C. 516, 519, 719 S.E.2d 665, 666 (2011), decided in late 2011, makes clear that "Section 12-21-2710 makes it unlawful to possess illegal gambling machines, even if they are not fully operational." Nowhere in these decisions is there any mention of § 61-4-580(3) as an exemption to legalize machines and devices prohibited by § 12-21-2710. Nor would there be any such reference since the Court concluded in both Westside and State v. 192 Coin-Operated Video Game Machines that an illegal machine's use (even were it a part of a promotion of products) is of no moment. The Court in Westside explicitly stated that Act 125 repealed § 12-21-2710's exemption in § 16-19-60 for "nonmachine cash payouts" and the exemption for video game machines with a "free play feature." When the General Assembly enacted 1999 Act No. 125, banning video gaming machines and devices pertaining to games of chance in South Carolina, it is presumed to have been aware of the earlier act which amended § 61-4-580(3). See Whitner v. State, 328 S.C. 1, 6, 492 S.E.2d 777, 779 (1997) ("[T]here is a basic presumption that the legislature has knowledge of previous legislation as well as of judicial decisions construing that legislation when later statutes are enacted concerning related subjects."). Accordingly, there is no evidence that the South Carolina Legislature expressly banned all gaming machines and devices set forth in § 12-21-2710, as acknowledged in Westside, yet, at the same time, intended to allow the use of such machines or devices in connection with a promotion or sweepstakes through a provision found in the prohibited acts for beer and wine license holders contained

in an entirely different code section. Moreover, the South Carolina Supreme Court has long acknowledged that "[u]nder longstanding precedent in this state, licensing schemes do not render legal products or devices that are illegal under other provisions of state law." State v. One Coin-Operated Video Game, 321 S.C. 176, 467 S.E.2d 443, 445 (1995); *see also* Alexander v. Martin, 192 S.C. 176, 6 S.E.2d 20, 24 (1939).

Thus, the history of these statutes strongly supports the conclusion that the South Carolina Legislature intended that § 61-4-580(3) accomplish exactly what it purports to do, which is to provide an exception to the former prohibition on all "gambling and games of chance" in administrative beer and wine licensing actions for permit holders who offer legitimate sweepstakes promotions that do not otherwise violate South Carolina law, including § 12-21-2710, and that strictly comply with the requirements of § 61-4-580(3).

Of course, on its face S.C. Code § 61-4-580(3) applies only to promotions conducted on licensed premises covered by a permit authorizing the sale of beer or wine. S.C. Code § 61-4-580(3). In one opinion we opined concerning phone cards sold as a part of game promotions:

> the distributors and store operators who sell these type of [phone] cards maintain that such games may be legally possessed and sold in this State. The argument often made by the purveyors of these cards is that these games are merely "promotional" in nature and are consistent with the promotional games authorized by the General Assembly under S.C. Code Ann. § 61-4-580 (West Supp. 2000) (holders of beer or wine permits may permit game promotions including contests, games of chance or sweepstakes where a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service; b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize; and c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation).
>
> Our Office has asserted that the so-called game "promotions" connected with the sale of these two minute phone cards are mere ruses to avoid our anti-gambling laws, particularly since the phone cards are never sold without the attached game pieces. True promotional games, such as those offered by McDonald's and other legitimate business concerns, are always brief or temporary in duration, and the vast majority of the consumer product or service is always sold with no game of chance involved. It is highly unlikely that these two-minute phone cards which you reference are ever sold without an attached game piece, since the purchaser is really buying the opportunity to win a prize, rather than a phone card costing fifty cents a minute.

Op. S.C. Atty. Gen., 2001 WL 1215464 (September 7, 2001) (emphasis added). The phone card issue was litigated, and in 2004 the South Carolina Supreme Court found the phone cards themselves and the dispensers that distributed the cards to be illegal devices under South Carolina law. Sun Light Prepaid Phonecard Co., Inc. v. State, 360 S.C. 49, 600 S.E.2d 61 (2004). Additionally, this Office previously opined:

> Undoubtedly, the [gaming] industry will attempt to use § 61-4-580 in the same way that it used § 16-19-60 in State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991) to

> once more legalize video gambling. In Blackmon, the Court read § 16-19-60 as an exception to the gambling laws with respect to non-payout video poker machines. Likewise, the argument will be made that the ban on video gambling does not reach games such as "Touch Easy Keno" because they are promotional sweepstakes used to promote a legitimate product.
>
> I reject this argument. In my opinion, § 61-4-580 does not immunize the "Touch Easy Keno" game from the State's gambling laws. Section 61-4-580 was designed to provide merely a safe harbor for beer and wine permit holders from administrative licensing sanctions, but not a zone of amnesty for video gambling criminal sanctions. If the elements of gambling are present, as they are here, § 61-4-580 does not protect this Keno game from criminal penalties. Administrative licensing penalties and criminal penalties are totally separate and apart from one another and have no effect on each other. See, State v. Young, 3 Neb. App. 539, 530 N.W.2d 269 (1995).

Op. S.C. Atty. Gen., 2001 WL 129355 (January 8, 2001) (emphasis added). **In our view, it is thus clear that nothing in Title 61 insulates or immunizes game machines or devices from the reach of Section 12-21-2710 or other laws prohibiting gaming or gambling. Beer and wine permit holders should thus be advised that to permit gaming or the presence of gaming devices on their premises puts their permit at risk as well as subjects them to possible criminal or forfeiture sanctions. Of course, such issues would have to be determined on a case-by-case basis and are beyond the scope of an opinion.**

**Conclusion:** This Office is only issuing a legal opinion. Until a court or the legislature specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. If it is later determined otherwise or if you have any additional questions or issues, please let us know.

Sincerely,

Anita S. Fair

Anita Smith Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Deputy Attorney General