



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

June 27, 2000

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

Dear Chief Stewart:

Captain Drakeford inquired by telephone yesterday as to whether video gambling machines would still be illegal per se if they are converted to other uses such as PAC-MAN or as a device for Internet gambling. This letter is to confirm our oral advice yesterday.

The Supreme Court in Westside Quik Shop v. Stewart and Condon made the answer to SLED's question very clear. In Westside, the Court stated that "on July 1, ... these machines will become contraband subject to forfeiture and destruction regardless of their use or operability." (Emphasis added). Citing, State v. 192 Game Machines, 338 S.C. 176, 525 S.E.2d 872 (2000). Consistent with the Westside ruling is our opinion to you, dated May 8, 2000, wherein we advised that "the General Assembly did not intend to play games here An illegal video game machine will remain illegal regardless of what parts are removed therefrom or what parts remain thereof." And as the Supreme Court said earlier in Squires v. S.C. Law Enforcement Division, 249 S.C. 609, 155 S.E.2d 859 (1967), "we think it would abort the legislative purpose to hold that an assembled gambling device is the only one that is condemned and subject to seizure and destruction"

Finally, the Supreme Court in State v. 192 Game Machines anticipated that the video gambling industry would attempt to circumvent the statute by converting gambling devices to other types of machines. There, the Court summarized the gambling operators' argument as follows: "Today, with the advent of the computer, a video game machine is simply a box containing a computer which can be configured to play a variety of games, from poker to PAC-MAN; therefore, the machine itself should not be considered illegal." The Court rejected this argument, stating that "possession of these machines is illegal regardless of their intended use or operation."

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Accordingly, all law enforcement agencies should be forewarned: any attempt to circumvent the law making video gambling machines illegal contraband as of July 1 by converting those machines to other uses will not work. The applicable rule is once a video gambling machine, always a video gambling machine. An illegal machine cannot be rendered legal by ruse or ploy. No matter what you call it or how you fiddle with it, a poker machine is a poker machine.

With respect to your decision to give owners and operators until July 8 to remove their machines from South Carolina, I would strongly urge you to reconsider. After Westside, there is no basis for any legal argument that an extension or grace period beyond July 1 is warranted. If your decision is based upon the possibility that you might be sued, this Office will, of course, represent you as we did in Westside. Eight months notice is long enough and the machines should be confiscated beginning July 1.

Sincerely,



Charlie Condon
Attorney General

CC/an

cc: All Local Law Enforcement Agencies