



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 23, 1997

William R. Neill, Chief of Police
Beaufort Police Department
P.O. Box 898
Beaufort, South Carolina 29901-0898

Re: Informal Opinion

Dear Chief Neill:

You have asked for an opinion "concerning whether or not local law enforcement has the authority to enforce state poker machine regulations in their areas of jurisdiction pursuant to § 12-21-2720(a)(3)...". It is your understanding that the South Carolina Law Enforcement Division has been designated as the State agency that enforces the requirements under § 12-21-2720(a)(3)..." and thus you inquire whether such designation precludes your enforcement. It is my opinion that it does not.

LAW/ANALYSIS

S.C. Code Ann. § 12-21-2720(a)(3), which is made out of Article 19 of Chapter 21 of Title 12, provides as follows:

(a) [e]very person who maintains for use or permits the use of, on a place or premises occupied by him, one or more of the following machines or devices shall apply for and procure from the South Carolina Department of Revenue a license effective for two years for the privilege of making use of the machine in South Carolina and shall pay for the license a tax of ... three thousand dollars for each machine in item (3):

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... (3) a machine of the nonpayout type, in-line pingame, or video game with free play feature operated by a slot in which is deposited a coin or thing of value except machines of the nonpayout pin table type with levers or "flippers" operated by the player by which the course of the balls may be effected or changed.

§ 12-21-2738 further establishes the penalties for a violation of Article 19 generally and § 12-21-2720(a) (3) specifically. Such section provides in pertinent part that:

[i]f the violation under this section relates to a machine licensed pursuant to § 12-21-2720 (a) (3), the applicable penalty amount is two thousand five hundred dollars, no part of which may be suspended, and one-half of this penalty must be deposited to the credit of the general fund of the State and one-half must be retained or forwarded to the law enforcement or administrative agency charging the violation.

These statutes in no way restrict local law enforcement officers from enforcing their provisions. While it is my understanding that SLED has been designated by Executive Order of the Governor as the law enforcement agency to enforce these provisions on behalf of the State, I am further informed that such Executive Order does not purport to limit in any way local law enforcement agencies in enforcing these provisions.

In an informal opinion of this office, dated January 29, 1996, we addressed this same issue generally. There, we stated that "[t]his office has consistently concluded that local law enforcement officers may enforce any criminal statutes unless the statute indicates otherwise". See also, Op. Atty. Gen., No. 85-48 (April 30, 1985) and 1941-42 Op. Atty. Gen. 257 (July 24, 1941). Thus I concluded in the Informal Opinion that because "nothing in the retail license statutes [are] ... to the contrary, it is my opinion that local law enforcement authorities can enforce this criminal statute [§12-36-560] just as they would any other criminal offense."

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Accordingly, for the same reasons, it is my opinion that local law enforcement officers may enforce §§ 12-21-2720(a)(3) and 12-21-2738 for any violation thereof.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy 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 am

Very truly yours,



Robert D. Cook
Assistant Deputy Attorney General

RDC/rp