

The State of South Carolina



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October 3, 1994

Mr. A. Crawford Clarkson, Jr.
Chairman
South Carolina Department of Revenue
and Taxation
P. O. Box 125
Columbia, South Carolina 29214

Re: S. C. Code Ann. § 12-21-2791 (1993 Cum. Supp.)

Dear Chairman Clarkson:

You have asked this Office for its ruling relative to the interpretation and application of S. C. Code Ann. § 12-21-2791 (1993 Cum. Supp.). Your inquiry raises a series of related questions. I first advise that when the Office of Attorney General is requested to issue its opinion concerning the interpretation of a statute, our approach is to determine, to the extent possible, how the courts of this state will ultimately interpret the statutory provision. Thus, we are guided by the same rules of statutory interpretation that serve as guideposts for the courts.

The cardinal rule of statutory interpretation is to ascertain and give effect to the legislative intent. Horn v. Davis Electric Contractors, Inc., 307 S.C. 559, 416 S.E.2d 634 (1992); State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Most often, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). The words of a statute must be given their plain and ordinary meaning without resort to subtle or forced constructions. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Bryant v. City of Charleston, 295 S.C. 408, 368 S.E.2d 899 (1988). Where there is no ambiguity in the words used by the General Assembly, the courts have no right to look for or impose another meaning. Perry v. Minute Saver Food Stores of South Carolina, Inc., 255 S.C. 42, 177 S.E.2d 4 (1970); Wynn v. Doe, 255 S.C. 509, 180 S.E.2d 95

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(1971). On the other hand, if the statute is susceptible to various interpretations, the construction of a statute by the agency charged with its administration is entitled to most respectful consideration and should not be overruled absent compelling reasons. Jasper County Tax Assessor v. Westvaco, 305 S.C. 346, 409 S.E.2d 333 (1991); William C. Logan and Associates v. Leatherman, 290 S.C. 400, 351 S.E.2d 146 (1986).

By its literal text, Section 12-21-2791 regulates two aspects of video gambling. First, the General Assembly regulated the number of free game credits that can be redeemed for cash: "Any location which operates or allows the operation of coin-operated machines pursuant to Section 12-21-2720 (A) (3) which provides payouts authorized pursuant to Section 16-19-60 shall limit the cash payouts for credits earned for free games to two thousand five hundred credits per player per location during any twenty-four hour period." Next, Section 12-21-2791 regulates the cash value of each redeemed free game credit: "The cash value of credits for each free game shall be limited to five cents."

I.

Does Section 12-21-2791 set the maximum cash payouts for credits earned for free games at two thousand five hundred credits with the maximum cash value for each credit earned being five cents?

With regard to question number one, we concur with the interpretation suggested by the Department of Revenue that the term "limit" or "limited"¹ as used in this context prescribes, respectively, the maximum number of free game credits that can be redeemed, and the maximum amount of cash for each redeemed free game credit. Thus, a location is not authorized to redeem for cash credits more than twenty-five hundred free game credits per player per location during any twenty-four hour period. Moreover, the value of each free game credit redeemed cannot exceed five cents. Again, this Office concurs in the Department of Revenue's interpretation of this provision. We believe that not only is the Department of Revenue's interpretation supported by the text of the statute, it accurately reflects the legislative intent.

¹ The term "limit" is ordinarily defined in this context as prescribing a maximum amount, quantity or number. See Webster's Third Int. Dict., p. 1312. We perceive no ambiguity in its use in Section 12-21-2791.

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II.

The statute limits the 'cash value of credits for each free game ... to five cents.' Does this limit the amount a player can pay for a credit? In other words, can a machine be programmed to charge more than five cents a credit for each credit that a player purchases (e.g. 25 cents per credit) even though the payout for 'credits earned for free games' is limited to five cents per credit?

Section 12-21-2791 does not purport to regulate the amount of money a location or "owner/operator" charges a player to operate or play a coin-operated machine.

III.

How is the 'cash payout for credits earned for free games' calculated? In other words, is the cash payout based upon 'gross credits' - the total number of credits remaining on the machine when the player finishes playing - or is the cash payout based upon 'net credits' - the total number of credits remaining on the machine when the player finishes playing minus the number of credits purchased by the player? Or is some other method of calculation required by the statute?

As noted in answer number one herein, Section 12-21-2791 regulates only those free game credits that are redeemed for cash. The prescribed maximum limitations upon the number of free game credits that can be redeemed and the cash value for each redeemed free game credit are not qualified nor in any manner dependent upon the amount of money expended by the player in operating or playing the coin-operated machine.

IV.

If the 'cash payout for credits earned for free games' is calculated based upon 'net credits' - the total number of credit remaining on the machine when the player finishes playing minus the number of credits purchased by the player, may a player be refunded for any credits he purchased that remain on the machine at the end of his play? For example, if player "A" has 2,700 credits remaining on the machine at the end of his play, 200 of which he purchased during the course of his play, may player "A" receive a refund for the 200 credits he purchased in

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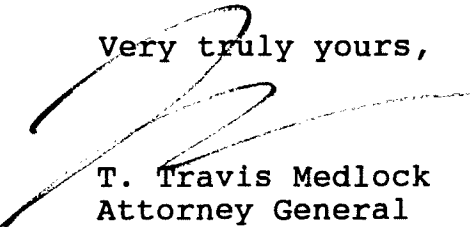
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addition to his cash payout for the 2,500 credits he won? If so, is the value of the refund for the credits the player purchased limited only by the amount the player originally paid for the credits or is it limited to five cents per credit?

I again reference response number one herein. Section 12-21-2791 prescribes the maximum number of free game credits that can be redeemed for cash, and the maximum amount of cash that can be paid for each free game credit redeemed. The statutory language does not qualify or modify these regulations regardless whether the player deposits a large or small amount of money in the coin-operated machine, or regardless whether the player deposits more or less money in the machine than he may seek to redeem in credits.

Should you have any further questions, please contact me. With best regards, I am

Very truly yours,



T. Travis Medlock
Attorney General

TTM/shb