

The State of South Carolina

AL



Office of the Attorney General

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March 27, 1985

The Honorable Ryan C. Shealy
Member, South Carolina Senate
502 Gressette Building
Columbia, South Carolina 29202

Dear Senator Shealy:

In a letter to this Office you questioned the legality of South Carolina residents playing out-of-state lotteries by mail. You also asked whether in such circumstances the individuals should be considered to be playing the lottery within this State.

18 USCS §1302 prohibits the following activity:

"(w)hoever knowingly deposits in the mail, or sends or delivers by mail:

Any letter, package, postal card, or circular concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme;

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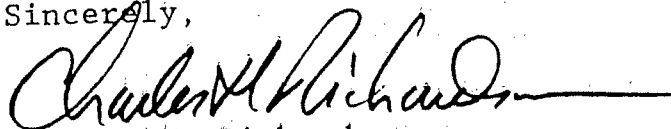
Any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes;"

The penalty for the violation of such provision is a fine of not more than one thousand dollars or imprisonment for not more than two years or both. For a subsequent offense, the penalty is a term of imprisonment of not more than five years. 18 USCS §1307(b) provides that the provisions of 18 USCS §1302 do not apply "... to the transportation or mailing (1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law...."

Referencing the above, it is clear that federal law prohibits residents of this State or of any other state playing lotteries by mail unless permitted as noted above. Therefore, it appears that an answer to your question as to whether in such circumstances the individuals should be considered to be playing a lottery within this State appears to be unnecessary.

If there is anything further, please advise.

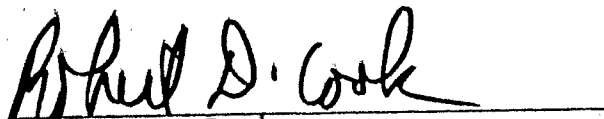
Sincerely,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions