

1975 WL 29056 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 7, 1975

\*1 Section 5-660 of the Code makes it unlawful for persons under the age of eighteen to play pinball machines commonly referred to as 'flipper' machines.

TO: Mr. G. Samuel Jones  
Abbeville Amusement Co.

### QUESTION

Are persons under the age of eighteen permitted to play machines referred to as 'flipper' machines that are now taxed under subsection 3 of Section 5-660 of the Code, which was last amended by the 1975 General Assembly?

### STATUTES

Section 5-622.1. 'It shall be unlawful for any minor under the age of eighteen to play a pinball machine.'

Section 5-622.2. 'It shall be unlawful for the operator of any pinball machine to permit any minor under the age of eighteen to play or operate such machine, and the operator of any pinball machine shall be responsible that every person who plays or operates his machine is in fact legally authorized to do so.'

### DISCUSSION

The Supreme Court of South Carolina upheld the provisions of the aforementioned acts relating to the use of pinball machines by minors as being proper regulation within the State's police power. The Court described a pinball machine as follows:

'A pinball machine has been described as one in use of which the player, after depositing a coin in the slot, puts balls in play by pulling a spring actuated plunger on a titled table upon which there are bumpers which deflect balls in various directions through various lanes, producing a score registered from contact with different bumpers.' [State v. Langley](#), 236 S. C. 583, 115 S. E. 2d 308 (1960).

In 1975, the General Assembly amended Section 5-660 of the Code so as to provide for a business license tax of \$75.00 for nonpayout pin table type machines with levers or 'flippers'. The amended provisions of subsection 3 describe the machines taxable at \$75.00 as follows:

'Any machine for the playing of games or amusements, which has a free play feature, operated by a slot wherein is deposited any coin or thing of value including machines of the nonpayout pin table type with levers or 'flippers' operated by the player by which the course of the balls can be altered or changed.'

It appears for the most part that 'flipper' machines come within the definition of pinball machines as the Court described them for regulatory purposes. The regulatory statutes were not amended by the provisions of the taxing statutes, therefore

it is our opinion that it is unlawful for persons to operate so called 'flipper' machines which meet the pinball machine definition.

CONCLUSION

It is the opinion of this office that it is unlawful for a minor to operate a pinball machine of the so-called 'flipper' type.

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