

1973 S.C. Op. Atty. Gen. 181 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3544, 1973 WL 21003

Office of the Attorney General

State of South Carolina

Opinion No. 3544

June 14, 1973

***1 A pinball machine would constitute a lottery if a prize were offered or cash consideration were offered as a prize.**

Member

House of Representatives

Beaufort County

You have requested that this office advise you as to whether a pinball machine would be included within the definition of a lottery under the existing State laws. It has been held by the Courts of this State that the three essential elements of a lottery are the offering of a prize, the awarding of the prize by chance, and the giving of a consideration for the opportunity to win the prize. *Darlington Theatre Inc. v. Cooper*, 190 S. C. 282, 2 S. E. 2nd 728.

It would appear that pinball machines as they are commonly known would not come within the definition of a lottery in that at the present time they do not offer a prize. The other essential elements of a lottery are present in that a consideration is given and chances are involved. It has been held that pinball machines with respect to such cash payoffs were made for free games won to constitute a lottery. *A. B. Long Music Co. v. Commonwealth of Kentucky*, 429 S. W. 2nd 391, 394; *AAA Amusements Inc. v. State*, 127 S. E. 2nd 919.

It is, therefore, the opinion of this office based upon the foregoing that a pinball machine would constitute a lottery if a prize were offered or cash consideration were offered as a prize. This opinion must be regarded assuming that the winning on a pinball machine does not depend solely on skill or judgment; or if skill or judgment were involved that they are not the dominant factors in winning.

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