

1973 WL 27070 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 20, 1973

***1 re: Disposition of Slot Machines**

The Honorable Arthur K. Chete
Chief of Police
P. O. Box JJ City-County Complex
Florence, South Carolina 29501

Dear Chief Chete:

You have requested that this office advise you, first as to the disposition to be made of slot machines which were confiscated by the City Police under the provisions of Section 5-622, Code of Laws of South Carolina 1962. Section 5-622 (supra) states any vending or slot machine, punch board, pull board or other device pertaining to the games of chance prohibited by Section 5-621 shall be seized by any officer of the law and at once taken before any magistrate of the county in which such machine, board or device is seized and shall immediately examine it and if he is satisfied that it is in violation of said section or any other law of this state, he shall direct that it be immediately destroyed.

It thus appears to be clear that the applicable laws of this state require that any slot machine seized by law enforcement officers be examined by a proper magistrate and, if in fact, it is determined that it is a 'slot machine' it shall be destroyed. This is a mandatory section, making no reference or bearing no relation to the ultimate criminal charges filed against the person maintaining possession of the machine.

You have further asked what should be the disposition of the money found in confiscated slot machines.

It is prescribed in our State Constitution that all fines, penalties, forfeitures and eschates accruing to the State shall accrue to the use of the State, unless provided otherwise. South Carolina Constitution, Art. 17, Section 11. Money that is either staked, debted, or pending on gambling games if forfeited to the State. Section 16-507, Code of Laws of South Carolina 1962. A slot machine may be seized by any officer of the law; and once it has been determined that it is a gambling device, it must be destroyed. Section 5-62 Code of Laws of South Carolina 1962. As this is a confiscation Section 16-514 Code of Laws of South Carolina 1962, it follows that the property that is seized is forfeited to the State. 8A Words and Phrases 127. The money that is found in any gambling device, which is an unlawful slot machine, being part of the property, is forfeited to the State. 1930-31 Op.A/G 216; confirmed 1963 Op.A/G 36.

All fines and penalties imposed and collected by the Court of General Sessions are to be turned over by the Clerk of Court to the County Treasurer. Section 15-1782 Code of Laws of South Carolina 1962. The 'forfeiture' is included within the meaning of the words fines and penalties, State v. Addington, 143 North Carolina 683, 57 S.E. 398, Inasmuch as the slot machine and its money is confiscated, and thereby forfeited, the Court of General Sessions takes jurisdiction of the case, and as such it does accrue to the State of South Carolina.

It is therefore the opinion of this office that money found in the confiscated slot machine should be turned over to the State Treasurer.

*2 I trust that this has been sufficient to answer the question which you posed. If we may be of any further assistance, please don't hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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