CHAPTER 19

Gambling and Lotteries

CROSS REFERENCES

Lotteries or raffles unlawful unless authorized, see Section 33‑57‑100.

Standards for raffles, see Section 33‑57‑140.

**SECTION 16‑19‑10.** Setting up lotteries.

Whoever shall publicly or privately erect, set up, or expose to be played or drawn at or shall cause or procure to be erected, set up, or exposed to be played, drawn, or thrown at any lottery under the denomination of sales of houses, lands, plate, jewels, goods, wares, merchandise, or other things whatsoever or for money or by any undertaking whatsoever, in the nature of a lottery, by way of chances, either by dice, lots, cards, balls, numbers, figures, or tickets or who shall make, write, print or publish, or cause to be made, written, or published any scheme or proposal for any of the purposes aforesaid is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars and imprisoned for one year. One‑third of the fine imposed shall be paid to the person, if any, who informed law enforcement officials or other appropriate authorities about the violation which led to the conviction. Each violation constitutes a separate offense.

HISTORY: 1962 Code Section 16‑501; 1952 Code Section 16‑501; 1942 Code Section 1231; 1932 Code Section 1231; Cr. C. ‘22 Section 123; Cr. C. ‘12 Section 259; Cr. C. ‘02 Section 199; G. S. 2596; R. S. 185; 1762 (4) 180; 1996 Act No. 292, Section 3.

CROSS REFERENCES

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Provisions for legal conduct of bingo games, see Section 12‑21‑3910 et seq.

Library References

Gaming and Lotteries 232.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 140 to 143, 145 to 146, 154, 163.

C.J.S. Lotteries Sections 10 to 11, 15, 24, 26 to 29.

C.J.S. Trading Stamps and Coupons Section 3.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 2, Background.

S.C. Jur. Gaming Section 14, Lotteries.

S.C. Jur. Lotteries Section 14, Setting Up Lotteries.

Forms

Am. Jur. Pl. & Pr. Forms Gambling Section 1 , Introductory Comments.

Treatises and Practice Aids

Williston on Contracts Section 17:8, Status of Wagering; Interstate Enforcement of Gambling Debts.

Attorney General’s Opinions

Discussion of the legality of a “casino night” under State law. S.C. Op.Atty.Gen. (Oct. 4, 2013) 2013 WL 5651553.

Inasmuch as the element of chance is present, the contest set forth in the website www.contestforchange.com would constitute an illegal lottery. S.C. Op.Atty.Gen. (Nov. 19, 2010) 2010 WL 4982607.

Discussion of whether a particular solicitation campaign associated with a charitable organization meets the consideration element of a lottery under South Carolina law. SC Op.Atty.Gen. (March 20, 2009) 2009 WL 959645.

A scheme whereby a builder’s inventory is marketed and transferred through ticket sales on the internet giving buyers of the tickets a chance to win a home from the builder, has all the necessary elements of a lottery and would be prohibited. SC Op.Atty.Gen. (July 9, 2008) 2008 WL 3198128.

The WeSave promotional game would not constitute a lottery. SC Op.Atty.Gen. (Sept. 21, 2007) 2007 WL 4284634.

A fundraiser, involving floating ducks down a river for a cash prize, would constitute an illegal lottery. SC Op.Atty.Gen. (Jan. 26, 2007) 2007 WL 419405.

The Choose Children First proposal, involving cash prizes to be awarded to participants via lottery style drawings, would not constitute a lottery. SC Op.Atty.Gen. (Dec. 11, 2006) 2006 WL 3877513.

A court would likely determine that the Chuck‑A‑Puck contest is primarily a game of skill and thus not violative of the South Carolina gambling laws. SC Op.Atty.Gen. (Nov. 1, 2006) 2006 WL 3522434.

A golf skills tournament, proposed by Dutch Fork High School, to raise funds for the construction of an athletic field house would likely be held by a court not to violate South Carolina’s gambling laws. SC Op.Atty.Gen. (Feb. 2, 2006) 2006 WL 422570.

Discussion of promotional scheme, where payment is made for the purchase of a card or cards, and together with such card, there is the opportunity to participate in a contest. SC Op.Atty.Gen. (Jan. 11, 1996) 1996 WL 82893.

The Million Dollar Mulligan promotion would likely constitute a lottery, as well as gambling. SC Op.Atty.Gen. (Sept. 5, 1995) 1995 WL 805729.

The operation of video gambling machines upon a floating casino situated in South Carolina territorial waters violate both the State constitutional and statutory prohibitions against lotteries as well as the intent of the Video Game Machines Act. 1994 Op.Atty.Gen., No 94‑21, p 51 (1994 WL 136196).

Giving away lottery ticket from state where lotteries are permitted pursuant to random drawing at bingo session in South Carolina may be prohibited under Section 16‑19‑10. Lottery may exist if there is payment of consideration to win lottery ticket as result of random drawing. 1991 Op.Atty.Gen. No 91‑38, p 99 (1991 WL 474768).

Bank’s automatic teller machine promotion would constitute lottery where users of ATMs making withdrawals may randomly receive larger bills than those requested, inasmuch as certain users may be charged fee for using machines and only individuals with accounts are eligible to use machines and take advantage of promotion. 1990 Op.Atty.Gen. No 90‑60 (1990 WL 482447).

Prior opinion dated September 26, 1980, concluding that “Casino Night” operations violate several statutory provisions is applicable to proposed “Monte Carlo Night”. 1984 Op.Atty.Gen., No 84‑44, p 106 (1984 WL 159851).

A raffle in which the general public purchases tickets for a chance to win a cow or the cash equivalent is prohibited by Section 16‑501. [1976 Code Section 16‑19‑10]. 1976‑77 Op.Atty.Gen., No 77‑107, p 95 (1977 WL 24449).

A sales promotion scheme where customers collect free bottle caps imprinted with the letters of the sponsor’s name as part of a game does not constitute a lottery since no consideration is necessary. 1965‑66 Op.Atty.Gen., No 2031, p 103 (1966 WL 8502).

NOTES OF DECISIONS

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1. In general

It is a misdemeanor under South Carolina law to sell houses or land by lottery. Wachovia Bank, Nat. Ass’n v. Blackburn (S.C. 2014) 407 S.C. 321, 755 S.E.2d 437, rehearing denied, on remand 2015 WL 10574318. Gaming And Lotteries 232

Action based on alleged agreement over ownership of automobile that was given away by drawing involved a transaction that was separate and independent of the drawing itself, it being thus unnecessary for court to determine whether the drawing constituted an illegal lottery; independent contract, not forbidden by law, is enforceable even though it be with respect to the proceeds of an illegal transaction, though action to enforce illegal transaction itself will not be aided by the courts. Nelson v. Bryant (S.C. 1975) 265 S.C. 558, 220 S.E.2d 647.

The setting up of a lottery is not necessarily a crime which requires concerted action. One person may set up a lottery or expose it to be played. State v. Ferguson (S.C. 1952) 221 S.C. 300, 70 S.E.2d 355, certiorari denied 73 S.Ct. 35, 344 U.S. 830, 97 L.Ed. 646.

The three necessary elements of a lottery are the offering of a prize, the awarding of the prize by chance, and the giving of a consideration for an opportunity to win the prize. Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782. Gaming And Lotteries 232

For theater “give away plan” which successfully avoids the prohibitions of this section [Code 1962 Section 16‑501], see Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782.

A merchant who delivers to buyers of goods numbered tickets for the drawing of a prize maintains a lottery. Rountree v. Ingle (S.C. 1913) 94 S.C. 231, 77 S.E. 931, Am.Ann.Cas. 1915A,1002.

And a customer procuring a ticket is in pari delicto with the merchant and cannot invoke the aid of the courts in the enforcement of any claim depending on it. Rountree v. Ingle (S.C. 1913) 94 S.C. 231, 77 S.E. 931, Am.Ann.Cas. 1915A,1002.

Where a customer of a merchant, who maintained a lottery, obtained from him a ticket which drew a prize, but a third person obtained the ticket by unfair means and the prize by false pretenses, the customer could not recover the prize from the third person on the theory of any independent contractual claim beyond the illegal lottery drawing. Rountree v. Ingle (S.C. 1913) 94 S.C. 231, 77 S.E. 931, Am.Ann.Cas. 1915A,1002. Gaming And Lotteries 276(8)

For additional related case, State v. Pinchback (S.C. 1818).

2. Constitutional issues

There is no basis for finding federal field preemption of South Carolina’s restrictions on gambling on vessels, since maritime matters and gambling are not fields subject to exclusive federal control, but, rather, federal law in those fields respects both system of dual sovereignty and important regulatory interests of the states, and combined field of maritime gambling also leaves room for state regulation. Casino Ventures v. Stewart (C.A.4 (S.C.) 1999) 183 F.3d 307, certiorari denied 120 S.Ct. 793, 528 U.S. 1077, 145 L.Ed.2d 669. Gaming And Lotteries 206(1); States 18.15

Johnson Act does not preempt state laws prohibiting gambling and gambling devices, as lifting of federal restrictions on gambling outside state territorial waters does not preempt state gambling prohibitions within those waters, and, by enacting Johnson Act amendments, Congress extended the reach of state police power beyond state territorial waters, by allowing states to criminalize the use of gambling devices on the high seas if state has enacted a statute that prohibits the use of gambling devices on “cruises to nowhere.” Casino Ventures v. Stewart (C.A.4 (S.C.) 1999) 183 F.3d 307, certiorari denied 120 S.Ct. 793, 528 U.S. 1077, 145 L.Ed.2d 669. Gaming And Lotteries 206(1); States 18.15

State laws restricting gambling within South Carolina represented well‑recognized exercise of state police power, since such laws were aimed at promoting welfare, safety, and morals of South Carolinians, and, thus, respect for state prerogatives dictated a cautious preemption analysis, one which was reluctant to imply a broad ouster of state authority. Casino Ventures v. Stewart (C.A.4 (S.C.) 1999) 183 F.3d 307, certiorari denied 120 S.Ct. 793, 528 U.S. 1077, 145 L.Ed.2d 669. States 18.13

3. Construction and application

This section [Code 1962 Section 16‑501] is a penal statute involving severe penalties, and the court will not extend the scope of the prohibition by a liberal construction of the words used, but will give to the section only such construction as is reasonably demanded by such words. Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782.

This section [Code 1962 Section 16‑501] will not bear the construction that any scheme that involves an element of chance comes within the prohibition. It is undoubtedly directed at a particular type of gaming or gambling which has become commonly known as a lottery, and not the prohibition of games of chance of all kinds. Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782.

This statutory prohibition is not only against a lottery in the usual acceptation of that term; it extends also to any scheme “in the nature of a lottery, by way of chances, etc.” While a given scheme may be “in the nature of a lottery” without being a lottery in a strict sense, it is not doubted that the quoted words were intended to cover only schemes which have the distinctive characteristics of a lottery, but which might lack some of the specific elements described in this section [Code 1962 Section 16‑501]. Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782.

The word “lottery” has no technical, legal meaning, but must be construed in the popular sense. Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782.

4. Injunctions

In an action seeking a declaratory judgment as to whether a promotion was a lottery in violation of Sections 16‑19‑10 to 16‑19‑160, the trial court erred in holding that there was no justiciable controversy between the parties where the solicitor of the 13th judicial circuit had informed the plaintiff that its promotion constituted an illegal lottery and that it was his duty to enforce the law, and the sheriff had ordered the plaintiff to remove its products from one of its stores. Treasured Arts, Inc. v. Watson (S.C. 1995) 319 S.C. 560, 463 S.E.2d 90.

In an action seeking a declaratory judgment as to whether a promotion was a lottery in violation of Sections 16‑19‑10 to 16‑19‑160, the trial court did not err denying injunctive relief where the term of the promotion had expired; under these circumstances, an order for injunctive relief would have no practical legal effect upon the existing case. Treasured Arts, Inc. v. Watson (S.C. 1995) 319 S.C. 560, 463 S.E.2d 90.

5. Indictment

Indictment may charge defendants at the same time with conspiracy and with setting up a lottery. State v Ferguson (1952) 221 SC 300, 70 SE2d 355, cert den 344 US 830, 97 L Ed 646, 73 S Ct 35. State v McIntire (1952) 221 SC 504, 71 SE2d 410.

**SECTION 16‑19‑20.** Adventuring in lotteries.

Whoever shall be adventurer in or shall pay any moneys or other consideration or shall in any way contribute unto or upon account of any sales or lotteries shall forfeit for every such offense the sum of one hundred dollars to be recovered with costs of suit, by action or indictment in any court of competent jurisdiction in this State, one moiety thereof to and for the use of the State and the other moiety thereof to the person who shall inform and sue for the same.

HISTORY: 1962 Code Section 16‑502; 1952 Code Section 16‑502; 1942 Code Section 1232; 1932 Code Section 1232; Cr. C. ‘22 Section 124; Cr. C. ‘12 Section 260; Cr. C. ‘02 Section 200; G. S. 2597; R. S. 186; 1762 (4) 180.

CROSS REFERENCES

Constitutional provisions regarding lotteries, gambling and betting, see SC Const. Art. XVII, Sections 7, 8.

Library References

Gaming and Lotteries 232.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 140 to 143, 145 to 146, 154, 163.

C.J.S. Lotteries Sections 10 to 11, 15, 24, 26 to 29.

C.J.S. Trading Stamps and Coupons Section 3.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 14, Lotteries.

S.C. Jur. Lotteries Section 15, Adventuring in Lotteries.

Attorney General’s Opinions

A scheme whereby an individual pays a courier service a fee in order for the service to buy a lottery ticket in another state which is then delivered back to the purchaser is in violation of this State’s law prohibiting lotteries. 1989 Op.Atty.Gen., No 89‑4, p 22 (1989 WL 406094).

The judgment call as to whether to prosecute a particular individual or whether a specific prosecution is warranted, or is on sound legal ground in an individual case involving the sale of lottery magazines which advertise opportunities to play a lottery, remains a matter within the exclusive discretion and jurisdiction of the Circuit Solicitor. 1989 Op.Atty.Gen., No 89‑70, p 181 (1989 WL 406160).

NOTES OF DECISIONS

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Taxation 2

1. In general

This section [Code 1962 Section 16‑502] must be taken to subject to penalties persons other than the promoters who participate in the scheme complained of. Darlington Theatres v. Coker (S.C. 1939) 190 S.C. 282, 2 S.E.2d 782.

2. Taxation

Taxpayers, as matter of public policy, were not entitled to deduct, as business‑related loss on their individual federal income tax return, the cash seized by county law enforcement officials from taxpayers’ illegal gambling operation, which cash the taxpayers consensually forfeited to state of South Carolina in connection with taxpayers’ agreement with state to plead guilty to adventuring in lotteries; allowing such deduction would be contrary to South Carolina’s public policy against illegal gambling, because it would reduce the “sting” of the forfeiture. Hackworth v. C.I.R. (C.A.4 (S.C.) 2005) 155 Fed.Appx. 627, 2005 WL 3067919, Unreported. Internal Revenue 3410

3. Injunctions

In an action seeking a declaratory judgment as to whether a promotion was a lottery in violation of Sections 16‑19‑10 to 16‑19‑160, the trial court erred in holding that there was no justiciable controversy between the parties where the solicitor of the 13th judicial circuit had informed the plaintiff that its promotion constituted an illegal lottery and that it was his duty to enforce the law, and the sheriff had ordered the plaintiff to remove its products from one of its stores. Treasured Arts, Inc. v. Watson (S.C. 1995) 319 S.C. 560, 463 S.E.2d 90.

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**SECTION 16‑19‑30.** Selling lottery tickets.

It shall be unlawful to offer for sale any lottery tickets or to open or keep any office for the sale of lottery tickets, and if any person shall offend against any of the provisions of this section he shall, on conviction thereof, forfeit and pay to the State a sum not exceeding ten thousand dollars. The county treasurer of the county in which such offense occurs shall prosecute the offender.

HISTORY: 1962 Code Section 16‑503; 1952 Code Section 16‑503; 1942 Code Section 1233; 1932 Code Section 1233; Cr. C. ‘22 Section 125; Cr. C. ‘12 Section 261; Cr. C. ‘02 Section 201; G. S. 2598; R. S. 187; 1846 (11) 368.

CROSS REFERENCES

Coin‑operated machines or devices not being subject to confiscation due to violation, see Section 12‑21‑2721.

Constitutional provisions regarding lotteries, gambling and betting, see SC Const. Art. XVII, Sections 7, 8.

Library References

Gaming and Lotteries 232.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 140 to 143, 145 to 146, 154, 163.

C.J.S. Lotteries Sections 10 to 11, 15, 24, 26 to 29.

C.J.S. Trading Stamps and Coupons Section 3.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 14, Lotteries.

S.C. Jur. Gaming Section 21, Under State Law.

S.C. Jur. Lotteries Section 16, Selling Lottery Tickets.

Attorney General’s Opinions

A scheme whereby an individual pays a courier service a fee in order for the service to buy a lottery ticket in another state which is then delivered back to the purchaser is in violation of this State’s law prohibiting lotteries. 1989 Op.Atty.Gen., No 89‑4, p 22 (1989 WL 406094).

The judgment call as to whether to prosecute a particular individual or whether a specific prosecution is warranted, or is on sound legal ground in an individual case involving the sale of lottery magazines which advertise opportunities to play a lottery, remains a matter within the exclusive discretion and jurisdiction of the Circuit Solicitor. 1989 Op.Atty.Gen., No 89‑70, p 181 (1989 WL 406160).

NOTES OF DECISIONS

Injunctions 1

1. Injunctions

In an action seeking a declaratory judgment as to whether a promotion was a lottery in violation of Sections 16‑19‑10 to 16‑19‑160, the trial court erred in holding that there was no justiciable controversy between the parties where the solicitor of the 13th judicial circuit had informed the plaintiff that its promotion constituted an illegal lottery and that it was his duty to enforce the law, and the sheriff had ordered the plaintiff to remove its products from one of its stores. Treasured Arts, Inc. v. Watson (S.C. 1995) 319 S.C. 560, 463 S.E.2d 90.

In an action seeking a declaratory judgment as to whether a promotion was a lottery in violation of Sections 16‑19‑10 to 16‑19‑160, the trial court did not err denying injunctive relief where the term of the promotion had expired; under these circumstances, an order for injunctive relief would have no practical legal effect upon the existing case. Treasured Arts, Inc. v. Watson (S.C. 1995) 319 S.C. 560, 463 S.E.2d 90.

**SECTION 16‑19‑40.** Unlawful games and betting.

If any person shall play at any tavern, inn, store for the retailing of spirituous liquors or in any house used as a place of gaming, barn, kitchen, stable or other outhouse, street, highway, open wood, race field or open place at (a) any game with cards or dice, (b) any gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (c) any roley‑poley table, (d) rouge et noir, (e) any faro bank (f) any other table or bank of the same or the like kind under any denomination whatsoever or (g) any machine or device licensed pursuant to Section 12‑21‑2720 and used for gambling purposes, except the games of billiards, bowls, backgammon, chess, draughts, or whist when there is no betting on any such game of billiards, bowls, backgammon, chess, draughts, or whist or shall bet on the sides or hands of such as do game, upon being convicted thereof, before any magistrate, shall be imprisoned for a period of not over thirty days or fined not over one hundred dollars, and every person so keeping such tavern, inn, retail store, public place, or house used as a place for gaming or such other house shall, upon being convicted thereof, upon indictment, be imprisoned for a period not exceeding twelve months and forfeit a sum not exceeding two thousand dollars, for each and every offense.

HISTORY: 1962 Code Section 16‑504; 1952 Code Section 16‑504; 1942 Code Section 1738; 1932 Code Section 1738; Cr. C. ‘22 Section 720; Cr. C. ‘12 Section 704; Cr. C. ‘02 Section 506; G. S. 1715; R. S. 391; 1802 (5) 432; 1816 (6) 27; 1909 (26) 66; 1999 Act No. 125, Section 5.

CROSS REFERENCES

Assisting in making illegal contract for future delivery or in operating bucket shop, see Section 32‑1‑290.

Bucket shops prohibited, see Section 32‑1‑280.

Coin‑operated machines or devices not being subject to confiscation due to violation, see Section 12‑21‑2721.

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Gambling contracts and recovery of money or property lost at gambling, see Section 32‑1‑10 et seq.

Games of chance or gambling devices at carnivals, see Section 52‑1‑20.

Provisions for legal conduct of bingo games, see Section 12‑21‑3910 et seq.

Library References

Gaming and Lotteries 232 to 258.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 1 to 17, 21, 23 to 25, 43, 46 to 48, 50 to 52, 55 to 57, 70, 131 to 156, 158, 160 to 161, 163 to 176.

C.J.S. Lotteries Sections 10 to 11, 15, 24, 26 to 29.

C.J.S. Trading Stamps and Coupons Sections 3 to 4.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 9, Card Games.

S.C. Jur. Gaming Section 10, Table Games.

S.C. Jur. Gaming Section 11, Dice Games.

S.C. Jur. Gaming Section 21, Under State Law.

Attorney General’s Opinions

The Holy City Charity Poker Challenge would be violative of State law as an illegal game of cards. SC Op.Atty.Gen. (April 23, 2007) 2007 WL 1302777.

The Poker Run event would be expressly prohibited by this section. SC Op.Atty.Gen. (June 7, 2005) 2005 WL 1609286.

The River Rally event would be expressly prohibited by this section. SC Op.Atty.Gen. (May 4, 2005) 2005 WL 1383352.

A scheme where video game machines or other gambling devices are placed and used in an adjoining state which allows their possession, but with the intent to offer to gamblers who come to South Carolina cash payoffs based on tickets or prizes won in the adjoining jurisdiction, would subject those engaged in such an enterprise to criminal prosecution, not only in this State, but in the adjoining jurisdiction, and potentially under federal law as well. SC Op.Atty.Gen. (August 3, 2000) 2000 WL 1205950.

Discussion of raffles and casino nights. SC Op.Atty.Gen. (May 23, 1997) 1997 WL 323779.

Cash payoff from playing coin‑operated video poker games constitutes lottery, and thus is in violation of state constitution. 1993 Op.Atty.Gen. No 93‑19 (1993 WL 720091).

Cash payoffs from play of video poker machine constitute violation of state law. Until Supreme Court rules in case of State v. Blackmon, it would be inappropriate for Attorney General’s office to comment as to legality of paying off on coin‑operated poker machine. Any prosecutorial decision with respect to specific case is matter for local solicitor. 1990 Op.Atty.Gen. No 90‑70 (1990 WL 482457).

Prior opinion dated September 26, 1980, concluding that “Casino Night” operations violate several statutory provisions is applicable to proposed “Monte Carlo Night”. 1984 Op.Atty.Gen., No 84‑44, p 106 (1984 WL 159851).

NOTES OF DECISIONS

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Validity 1

1. Validity

Criminal statute that prohibited playing a card game in a house used as a place of gaming did not offend First Amendment, as necessary for an overbreadth challenge, by failing to address whether dominant factor in a particular game was skill or chance. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Constitutional Law 1170; Gaming And Lotteries 206(9)

Statute that prohibited playing any games with cards in a house used as a place of gaming was not unconstitutionally vague for failing to define “house used as a place of gaming” as applied to defendants who were found gambling on “Texas Hold’em” poker game at a house where players were invited on a regular basis to engage in that activity, especially where, while the hosting of the game not a profit‑making commercial activity, the players were required to contribute money to cover the host’s expenses. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Constitutional Law 1132(27); Gaming And Lotteries 206(9)

2. In general

This section [Code 1962 Section 16‑504] does not prevent a municipality from making further regulations against gambling. City Council of Greenville v Kemmis (1900) 58 SC 427, 36 SE 727. Anderson v Seligman (1910) 85 SC 16, 67 SE 13.

It is the general rule that where the proprietor of a place not kept for the purpose of gaming allows gaming to be carried on, in which he participates or from which he in some way receives a benefit, he may be convicted as the keeper of a gaming place. State v. O’Neal (S.C. 1947) 210 S.C. 305, 42 S.E.2d 523. Gaming And Lotteries 250

The rule is well established that a person having general charge of a gaming place as an employee may be convicted of the offense of keeping a gaming house. The fact of agency need not be proved by direct evidence, but may rest in inference from facts and circumstances and the conduct of the parties. State v. O’Neal (S.C. 1947) 210 S.C. 305, 42 S.E.2d 523.

Evidence of keeping gaming house. State v. Lane (S.C. 1909) 82 S.C. 144, 63 S.E. 612.

Erasure in indictment. State v. Yoe (S.C. 1908) 80 S.C. 381, 61 S.E. 880.

In an indictment under this section it is not necessary to negative games, not only not forbidden, but expressly allowed. State v. Yoe (S.C. 1907) 76 S.C. 46, 56 S.E. 542.

It is doubtful whether this section [Code 1962 Section 16‑504] is only confined to gambling in a public place. City Council of Greenville v. Kemmis (S.C. 1900) 58 S.C. 427, 36 S.E. 727.

As to indictment which charges gaming and keeping public place and house used as a place for gaming, see State v. Howe (S.C. 1845) 1 Rich. 260. Indictment And Information 125(28)

A distillery is an outhouse within this section [Code 1962 Section 16‑504]. State v. Faulkener (S.C. 1823).

Witness unable to testify otherwise to the facts may testify to them as he sees them in an affidavit made by him at the time of the gaming. State v. Rawls (S.C. 1820). Witnesses 255(6)

Indictment lies for permitting and encouraging persons to play prohibited games in dwelling house, even though not alleged dwelling house kept for purpose of gaming. State v. Brice (S.C. 1806). Gaming And Lotteries 381

3. Particular games

An indictment charging the violation of gambling statute Section 16‑19‑40 was properly quashed where it charged that the defendant grocery store owner or his employees would disburse money to players who accumulated free plays on coin‑operated electronic poker machines; Section 16‑19‑60 excepts from Section 16‑19‑40 “coin‑operated nonpayout machines with a free play feature” which do not disburse money to the players, and here the grocery employees, not the machine itself, disbursed the money to the players. State v. Blackmon (S.C. 1991) 304 S.C. 270, 403 S.E.2d 660.

On a prosecution under this section [Code 1962 Section 16‑504] for betting on a game of dice in a public place, a charge that it is no crime for persons to play at dice for amusement, but to allow money to be staked on the game is gambling, is proper. State v. Robinson (S.C. 1894) 40 S.C. 553, 18 S.E. 891. Gaming And Lotteries 387

Game called “thimble” or “thimble and balls” is within section. State v. Red (S.C. 1853) 7 Rich. 8. Gaming And Lotteries 234

And also betting on horse racing. Atchison v. Gee (S.C. 1827).

4. Day cruises

“Playing clause” of gambling statute did not apply to prohibit gambling activities aboard day cruise company’s United States flag ship, which occurred when ship was beyond state’s three‑mile territorial waters; statute listed numerous specific locations at which the playing of games were prohibited, but did not include terms such as “vessel,” “ship,” or “boat.” Stardancer Casino, Inc. v. Stewart (S.C. 2001) 347 S.C. 377, 556 S.E.2d 357. Gaming And Lotteries 214

The term “highway,” as used in statute proscribing unlawful games and betting, refers only to dirt highways and not to water highways. Stardancer Casino, Inc. v. Stewart (S.C. 2001) 347 S.C. 377, 556 S.E.2d 357. Gaming And Lotteries 214

“Keeping clause” of gambling statute did not apply to prohibit gambling activities aboard day cruise company’s United States flag ship, which occurred when ship was beyond state’s three‑mile territorial waters; ship was not a “public place” within meaning of clause. Stardancer Casino, Inc. v. Stewart (S.C. 2001) 347 S.C. 377, 556 S.E.2d 357. Gaming And Lotteries 244

Gambling activities aboard day cruise company’s United States flag ship, which occurred when ship was beyond state’s three‑mile territorial waters, were not prohibited by amendments to gambling statutes proscribing possession of gaming machines; language of intent clause of act amending the statutes indicated that the legislature did not intend to ban day cruises. Stardancer Casino, Inc. v. Stewart (S.C. 2001) 347 S.C. 377, 556 S.E.2d 357. Gaming And Lotteries 255(1)

5. Gaming or gambling

Gambling on a game of skill is a violation of criminal gambling statute if that gambling is being done in a prohibited location. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Gaming And Lotteries 219

Whether an activity is gaming/gambling under criminal statute is not dependent upon the relative roles of chance and skill, but whether there is money or something of value wagered on the game’s outcome. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Gaming And Lotteries 214

One “games” within the meaning of criminal gambling statute when money is wagered on card game of “Texas Hold’em” poker, even though it is a game in which skill predominates. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Gaming And Lotteries 238

6. House of gaming

A residence can qualify as a “house used as a place of gaming” under criminal gambling statute. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Gaming And Lotteries 250

7. Review

The Supreme Court could uphold convictions under criminal gambling statute after construing statute in response to defendants’ vagueness challenges, even if it had not previously construed the statute in answer to such a challenge. Town of Mount Pleasant v. Chimento (S.C. 2012) 401 S.C. 522, 737 S.E.2d 830, rehearing denied. Criminal Law 1182

**SECTION 16‑19‑50.** Keeping unlawful gaming tables.

Any person who shall set up, keep, or use any (a) gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (b) roley‑poley table, (c) table to play at rouge et noir, (d) faro bank (e) any other gaming table or bank of the like kind or of any other kind for the purpose of gaming, or (f) any machine or device licensed pursuant to Section 12‑21‑2720 and used for gambling purposes except the games of billiards, bowls, chess, draughts, and backgammon, upon being convicted thereof, upon indictment, shall forfeit a sum not exceeding five hundred dollars and not less than two hundred dollars.

HISTORY: 1962 Code Section 16‑505; 1952 Code Section 16‑505; 1942 Code Section 1739; 1932 Code Section 1739; Cr. C. ‘22 Section 721; Cr. C. ‘12 Section 705; Cr. C. ‘02 Section 507; G. S. 1716; R. S. 392; 1816 (6) 27; 1999 Act No. 125, Section 7.

CROSS REFERENCES

Coin‑operated machines or devices not being subject to confiscation due to violation, see Section 12‑21‑2721.

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Provisions for legal conduct of bingo games, see Section 12‑21‑3910 et seq.

Library References

Gaming and Lotteries 245.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 43, 46, 48, 50, 131 to 137, 140 to 145, 158, 166 to 168, 172 to 173, 176.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 21, Under State Law.

Attorney General’s Opinions

Cash payoff from playing coin‑operated video poker games constitutes lottery, and thus is in violation of state constitution. 1993 Op.Atty.Gen. No 93‑19 (1993 WL 720091).

Cash payoffs from play of video poker machine constitute violation of state law. Until Supreme Court rules in case of State v. Blackmon, it would be inappropriate for Attorney General’s office to comment as to legality of paying off on coin‑operated poker machine. Any prosecutorial decision with respect to specific case is matter for local solicitor. 1990 Op.Atty.Gen. No 90‑70 (1990 WL 482457).

NOTES OF DECISIONS

In general 1

1. In general

Gambling activities aboard day cruise company’s United States flag ship, which occurred when ship was beyond state’s three‑mile territorial waters, were not prohibited by amendments to gambling statutes proscribing possession of gaming machines; language of intent clause of act amending the statutes indicated that the legislature did not intend to ban day cruises. Stardancer Casino, Inc. v. Stewart (S.C. 2001) 347 S.C. 377, 556 S.E.2d 357. Gaming And Lotteries 255(1)

The acts denounced under this section [Code 1962 Section 16‑505] are not confined to those done in some public place. City Council of Greenville v. Kemmis (S.C. 1900) 58 S.C. 427, 36 S.E. 727.

This section [Code 1962 Section 16‑505] does certainly denounce betting or the throwing of dice as an offense, State v. Robinson (S.C. 1894) 40 S.C. 553, 18 S.E. 891.

An indictment which in one count charges the offense of gaming under Code 1962 Section 16‑504 and the offense stated in this section [Code 1962 Section 16‑505] is bad. They are two separate and distinct offenses. State v. Howe (S.C. 1845) 1 Rich. 260.

**SECTION 16‑19‑60.** Certain social games of tiles, cards, and dice not unlawful under certain circumstances.

Notwithstanding any other provision of law to the contrary, it is not unlawful for persons who are members of a club or other social organization to gather for the purpose of engaging in games of tiles, cards, or dice including, but not limited to, canasta, mahjong, and bridge, where the games are played among members in a private residence, home, or community clubhouse or similar structure; no mechanical or electronic devices or machines of any kind, slot machines, pull tabs, punch boards, pull boards, or video games, devices, or machines of any kind are used or incorporated in any way; no person or entity of any kind receives any direct or indirect economic, financial, or monetary benefit of any kind; the host of the game or owner or lessee of the location in which the games are played does not receive any direct or indirect economic, financial, or monetary benefit of any kind; there is no betting, wagering, or gambling of any kind; a bona fide social relationship among the participants exists; and, except for the advantage of skill or luck, the risks of losing or winning are the same for all parties.

HISTORY: 2014 Act No. 194 (S.779), Section 1, eff June 2, 2014.

Library References

Gaming and Lotteries 258.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 131 to 137, 140 to 145, 166 to 168, 172 to 173, 176.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 2, Background.

**SECTION 16‑19‑70.** Keeping gaming tables open or playing games on the Sabbath.

Whoever shall keep or suffer to be kept any gaming table or permit any game or games to be played in his house on the Sabbath day, on conviction thereof before any court having jurisdiction, shall be fined in the sum of fifty dollars, to be sued for on behalf of, and to be recovered for the use of, the State.

HISTORY: 1962 Code Section 16‑506; 1952 Code Section 16‑506; 1942 Code Section 1748; 1932 Code Section 1748; Cr. C. ‘22 Section 729; Cr. C. ‘12 Section 714; Cr. C. ‘02 Section 516; G. S. 2592; R. S. 402; 1790 (5) 350.

CROSS REFERENCES

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Sundays, generally, see Section 53‑1‑5 et seq.

Library References

Sunday 3.

Westlaw Topic No. 369.

C.J.S. Sunday Sections 7, 10, 16, 20 to 27, 30, 33.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 20, Under Municipal Law.

**SECTION 16‑19‑80.** Forfeiture of wagers.

All and every sum or sums of money staked, betted or pending on the event of any such game or games as aforesaid are hereby declared to be forfeited.

HISTORY: 1962 Code Section 16‑507; 1952 Code Section 16‑507; 1942 Code Section 1741; 1932 Code Section 1741; Cr. C. ‘22 Section 723; Cr. C. ‘12 Section 707; Cr. C. ‘02 Section 509; G. S. 1718; R. S. 394; 1816 (6) 28; 1909 (26) 67.

CROSS REFERENCES

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Library References

Gaming and Lotteries 272.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 10, 26 to 42, 55 to 56, 68, 70 to 91, 108 to 109, 140 to 141, 144, 163.

C.J.S. Lotteries Sections 4 to 5, 10 to 11, 16 to 23.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 15, Athletic and Sporting Events and Bets.

S.C. Jur. Gaming Section 32, Forfeitures.

Attorney General’s Opinions

Forfeiture procedures under Section 16‑19‑80 should be conducted pursuant to Section 44‑53‑530. SC Op.Atty.Gen. (Jan. 2, 2009) 2009 WL 276741.

A magistrate should not sign the Consent Forfeiture Order form in lieu of a circuit court judge. SC Op.Atty.Gen. (July 6, 1999) 1999 WL 1814563.

The division of seized gambling money after the case is disposed of. SC Op.Atty.Gen. (June 23, 1998) 1998 WL 745998.

Discussion of whether money or property seized at a cockfight is subject to seizure and forfeiture pursuant to this section. SC Op.Atty.Gen. (Sept. 22, 1997) 1997 WL 665441.

Money confiscated in gambling raids should be distributed to state and county as provided for in Section 20‑7‑1510. 1990 Op.Atty.Gen. No 90‑8 (1990 WL 482396).

NOTES OF DECISIONS

In general 1

Taxation 2

1. In general

Forfeiture of money seized in raid on defendant’s residence, where defendant was charged and pled guilty to violation of Section 52‑15‑10, was justified under Section 16‑19‑80, where conclusion that moneys were staked, wagered, or pending in connection with gambling operation was supported by evidence of variety and quantity of gambling devices found in various locations in residence, and their close proximity to the substantial and unexplained amounts of money in question. State v. Petty (S.C. 1978) 270 S.C. 206, 241 S.E.2d 561.

2. Taxation

Taxpayers, as matter of public policy, were not entitled to deduct, as business‑related loss on their individual federal income tax return, the cash seized by county law enforcement officials from taxpayers’ illegal gambling operation, which cash the taxpayers consensually forfeited to state of South Carolina in connection with taxpayers’ agreement with state to plead guilty to adventuring in lotteries; allowing such deduction would be contrary to South Carolina’s public policy against illegal gambling, because it would reduce the “sting” of the forfeiture. Hackworth v. C.I.R. (C.A.4 (S.C.) 2005) 155 Fed.Appx. 627, 2005 WL 3067919, Unreported. Internal Revenue 3410

**SECTION 16‑19‑90.** Betting on elections.

Any person who shall make any bet or wager of money or wager of any other thing of value or shall have any share or part in any bet or wager of money or wager of any other thing of value upon any election in this State shall be guilty of a misdemeanor and, upon conviction, shall be fined in a sum not exceeding five hundred dollars and be imprisoned not exceeding one month.

HISTORY: 1962 Code Section 16‑508; 1952 Code Section 16‑508; 1942 Code Section 1740; 1932 Code Sections 1412, 1740; Cr. C. ‘22 Sections 347, 722; Cr. C. ‘12 Sections 358, 706; Cr. C. ‘02 Sections 271, 508; G. S. 1717, 2546; R. S. 235, 393; 1850 (12) 72; 1909 (26) 67.

CROSS REFERENCES

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Library References

Gaming and Lotteries 236.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 43, 48, 50, 55 to 57.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 94, Statutory Provisions.

S.C. Jur. Gaming Section 15, Athletic and Sporting Events and Bets.

**SECTION 16‑19‑100.** Imprisonment in case of conviction.

Upon conviction of any person under any of the provisions of Sections 16‑19‑40, 16‑19‑50 or 16‑19‑90, the court before whom such conviction shall take place shall commit such offender to the common jail of the county in which such conviction shall happen for a period not exceeding the time for which such offender has been sentenced, unless such offender shall sooner pay the fine or fines herein imposed, together with the cost of prosecution.

HISTORY: 1962 Code Section 16‑512; 1952 Code Section 16‑512; 1942 Code Section 1744; 1932 Code Section 1744; Cr. C. ‘22 Section 726; Cr. C. ‘12 Section 711; 1909 (26) 67.

CROSS REFERENCES

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Library References

Gaming and Lotteries 404.

Westlaw Topic No. 188.

C.J.S. Lotteries Sections 30, 33 to 34.

**SECTION 16‑19‑110.** Exoneration for becoming State’s evidence.

Any person who might be subject or liable to the fines and penalties imposed herein, either for gaming at or keeping a gaming table or tables, shall, upon being permitted by the circuit solicitor to become evidence in behalf of the State, be freed and exonerated from the same.

HISTORY: 1962 Code Section 16‑513; 1952 Code Section 16‑513; 1942 Code Section 1744; 1932 Code Section 1744; Cr. C. ‘22 Section 726; Cr. C. ‘12 Section 711; 1909 (26) 67.

Library References

Criminal Law 42.

Westlaw Topic No. 110.

C.J.S. Criminal Law Sections 65, 97 to 112.

**SECTION 16‑19‑120.** Officers shall destroy gambling devices after confiscation.

All officers of the law in whose care, possession or keeping may be placed any gambling or gaming machine or device of any kind whatsoever or any gambling or gaming punchboard of any kind or description whatsoever which has been confiscated for violation of any criminal law or laws of this State shall immediately after conviction of the violator of the law destroy the same.

HISTORY: 1962 Code Section 16‑514; 1952 Code Section 16‑514; 1942 Code Section 1747; 1932 Code Section 1747; 1923 (33) 123.

Library References

Searches and Seizures 84.

Westlaw Topic No. 349.

C.J.S. Searches and Seizures Sections 276 to 289.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 31, Other Provisions.

Attorney General’s Opinions

A law enforcement agency would be justified in seizing the Domino Pete device and taking it before any magistrate who shall immediately examine it, and if satisfied that it is in violation of Section 12‑21‑2710 or any other law of this State, direct that it be immediately destroyed. SC Op.Atty.Gen. (March 14, 2001) 2001 WL 564577.

The in‑line pin game machines can be confiscated and destroyed pursuant to this section. SC Op.Atty.Gen. (Dec. 7, 2000) 2000 WL 33120661.

Furniture used in gambling operation is not a gambling device subject to confiscation. 1967‑68 Op.Atty.Gen., No 2491, p 163 (1968 WL 8888).

Any equipment or thing which has been legally confiscated as a gambling device must be destroyed in accordance with this section [Code 1962 Section 16‑514]. 1966‑67 Op.Atty.Gen., No 2278, p 92 (1967 WL 8591).

NOTES OF DECISIONS

In general 1

1. In general

Furniture used in gambling operation is not a gambling device subject to confiscation. 1967‑68 Op Atty Gen, No 2491, p 163.

Any equipment or thing which has been legally confiscated as a gambling device must be destroyed in accordance with this section [Code 1962 Section 16‑514]. 1966‑67 Op Atty Gen, No 2278, p 92.

**SECTION 16‑19‑130.** Betting, pool selling, bookmaking and the like prohibited.

Any person within this State who:

(1) Engages in betting at any race track, pool selling or bookmaking, with or without writing, at any time or place;

(2) Keeps or occupies any room, shed, tenement, booth, building, float or vessel, or any part thereof, or occupies any place or stand of any kind upon any public or private grounds within this State with books, papers, apparatus or paraphernalia for the purpose of recording or registering bets or wagers or of selling pools;

(3) Records or registers bets or wagers or sells pools or makes books, with or without writing, upon the result of any (a) trial or contest of skill, speed or power of endurance of man or beast, (b) political nomination, appointment or election or (c) lot, chance, casualty, unknown or contingent event whatsoever;

(4) Receives, registers, records or forwards or purports or pretends to receive, register, record or forward, in any manner whatsoever, any money, thing or consideration of value bet or wagered or offered for the purpose of being bet or wagered by or for any other person or sells pools upon any such result;

(5) Being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float or vessel, or part thereof, or of any grounds within this State knowingly permits the same to be used or occupied for any of these purposes or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers or the selling of such pools or becomes the custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged or to be wagered or pledged upon any such result; or

(6) Aids, assists or abets in any manner in any of the aforesaid acts, which are hereby forbidden;

Shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or both fine and imprisonment, in the discretion of the court.

HISTORY: 1962 Code Section 16‑515; 1952 Code Section 16‑515; 1942 Code Section 1749; 1932 Code Section 1749; Cr. C. ‘22 Section 730; 1912 (27) 713.

CROSS REFERENCES

Coin‑operated machines or devices not being subject to confiscation due to violation, see Section 12‑21‑2721.

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Library References

Gaming and Lotteries 243, 245.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 43, 46, 48, 50, 131 to 137, 140 to 145, 158, 163, 165 to 168, 172 to 173, 176.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 2, Background.

S.C. Jur. Gaming Section 21, Under State Law.

S.C. Jur. Public Nuisance Section 10, Betting, Pool Selling, Bookmaking and the Like.

Attorney General’s Opinions

Various tournaments based upon contests of skill would likely be held by a court not to violate this section. SC Op.Atty.Gen. (August 29, 2003) 2003 WL 22050876.

Undercover officer investigating gambling operation may participate in gambling in order to establish criminal case against targeted gambling establishment. 1990 Op.Atty.Gen. No 90‑8 (1990 WL 482396).

Pari‑mutuel betting or any other form of betting on the outcome of a horse race has all the elements of a lottery and is, therefore, expressly prohibited by Article XVII, Section 7 of the State Constitution. 1986 Op.Atty.Gen., No 86‑119, p 349 (1986 WL 192077).

Games involving the shooting of firearms or the throwing of balls, in which a fee is paid to participate and the skill of the participant is rewarded by a greater sum or a prize of greater value, are specifically prohibited by this section [Code 1962 Section 16‑515]. 1971‑72 Op.Atty.Gen., No 3397, p 262 (1972 WL 20523).

NOTES OF DECISIONS

Admissibility of evidence 2

Constitutional issues 1

1. Constitutional issues

State laws restricting gambling within South Carolina represented well‑recognized exercise of state police power, since such laws were aimed at promoting welfare, safety, and morals of South Carolinians, and, thus, respect for state prerogatives dictated a cautious preemption analysis, one which was reluctant to imply a broad ouster of state authority. Casino Ventures v. Stewart (C.A.4 (S.C.) 1999) 183 F.3d 307, certiorari denied 120 S.Ct. 793, 528 U.S. 1077, 145 L.Ed.2d 669. States 18.13

There is no basis for finding federal field preemption of South Carolina’s restrictions on gambling on vessels, since maritime matters and gambling are not fields subject to exclusive federal control, but, rather, federal law in those fields respects both system of dual sovereignty and important regulatory interests of the states, and combined field of maritime gambling also leaves room for state regulation. Casino Ventures v. Stewart (C.A.4 (S.C.) 1999) 183 F.3d 307, certiorari denied 120 S.Ct. 793, 528 U.S. 1077, 145 L.Ed.2d 669. Gaming And Lotteries 206(1); States 18.15

Johnson Act does not preempt state laws prohibiting gambling and gambling devices, as lifting of federal restrictions on gambling outside state territorial waters does not preempt state gambling prohibitions within those waters, and, by enacting Johnson Act amendments, Congress extended the reach of state police power beyond state territorial waters, by allowing states to criminalize the use of gambling devices on the high seas if state has enacted a statute that prohibits the use of gambling devices on “cruises to nowhere.” Casino Ventures v. Stewart (C.A.4 (S.C.) 1999) 183 F.3d 307, certiorari denied 120 S.Ct. 793, 528 U.S. 1077, 145 L.Ed.2d 669. Gaming And Lotteries 206(1); States 18.15

Prejudice resulting from improper evidence of defendant’s prior bookmaking conviction was substantial and denied defendant a fair trial on charge of assault with intent to commit criminal sexual conduct, where the evidence presented to the jury was essentially limited to the testimony of the two alleged female victims and the defendant, and their testimony was sharply in conflict. State v. Morris (S.C. 1986) 289 S.C. 294, 345 S.E.2d 477.

2. Admissibility of evidence

Bookmaking, while a violation of law, is not a crime involving moral turpitude, and a witness’ prior conviction of bookmaking may not be introduced to impeach his credibility. State v. Morris (S.C. 1986) 289 S.C. 294, 345 S.E.2d 477. Witnesses 345(2)

**SECTION 16‑19‑140.** Violation of Section 16‑19‑130 constitutes a nuisance.

The violation of any of the provisions of Section 16‑19‑130 shall be deemed a common nuisance.

HISTORY: 1962 Code Section 16‑516; 1952 Code Section 16‑516; 1942 Code Section 1749; 1932 Code Section 1749; Cr. C. ‘22 Section 730; 1912 (27) 713.

Library References

Nuisance 65.

Westlaw Topic No. 279.

C.J.S. Nuisances Sections 17 to 19, 26 to 30, 253.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 21, Under State Law.

S.C. Jur. Public Nuisance Section 10, Betting, Pool Selling, Bookmaking and the Like.

LAW REVIEW AND JOURNAL COMMENTARIES

A guide to the common law of nuisance in South Carolina. 45 S.C. L. Rev. 337 (Winter 1994).

**SECTION 16‑19‑150.** Punishment of offense covered by Section 16‑19‑40.

Notwithstanding the provisions of Sections 16‑19‑130 and 16‑19‑140, wherever the offense is covered by Section 16‑19‑40, the punishment there provided shall be imposed, it being the intention to leave the jurisdiction of such gambling as is there specifically prohibited in the courts now having jurisdiction of the same.

HISTORY: 1962 Code Section 16‑517; 1952 Code Section 16‑517; 1942 Code Section 1749; 1932 Code Section 1749; Cr. C. ‘22 Section 730; 1912 (27) 713.

Library References

Gaming and Lotteries 404.

Westlaw Topic No. 188.

C.J.S. Lotteries Sections 30, 33 to 34.

**SECTION 16‑19‑160.** Punchboards for gaming.

It shall be unlawful for any person to use or offer for use any punchboards or other kinds of boards with numbers concealed thereon for the purpose of gaming or chance in this State. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than twenty‑five dollars or imprisoned not less than five days nor more than thirty days, or both, at the discretion of the court; provided, that for the second or third offense hereunder the fine shall not be less than twenty‑five dollars nor more than one hundred dollars or imprisonment on the public works of the county for a period not exceeding three months.

HISTORY: 1962 Code Section 16‑518; 1952 Code Section 16‑518; 1942 Code Section 1749‑1; 1932 Code Section 1749‑A; Cr. C. ‘22 Section 731; 1918 (30) 728.

CROSS REFERENCES

Constitutional provision prohibiting officers from gambling or betting, see SC Const. Art. XVII, Section 8.

Library References

Gaming and Lotteries 252.

Westlaw Topic No. 188.

C.J.S. Gaming Sections 10, 24 to 25, 47, 131 to 137, 140 to 146, 154 to 156, 158, 160, 163 to 164, 166 to 170, 172 to 173, 176.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Gaming Section 2, Background.

S.C. Jur. Gaming Section 20, Under Municipal Law.