

2005 WL 1609286 (S.C.A.G.)

Office of the Attorney General

State of
**South
Carolina***1
June 7, 2005The Honorable Catherine C. Ceips
Member
House of Representatives
1207 Bay Street
Beaufort, **South Carolina** 29902

Dear Representative Ceips:

In a letter you forwarded a request for an opinion from a constituent which questions the **legality** of a planned “**Poker Run**” which would be sponsored by the Beaufort Rotary Club. As stated in the constituent's letter:

Ticket holders (players) of the **Poker Run** will visit a total of five locations on the water to select a card for recording of their ticket with verification by both the player and Rotary representative. This player cannot shuffle the cards, ask for a new deck or otherwise receive special consideration as in a casino. The award will be determined by the committee from the entries made on the tickets.

It is my understanding from reading the brochure that tickets will be purchased by participants. The rules set forth in the brochure state:

1. Present ticket to Landing Recorder.
2. Landing Deck Handler will shuffle the deck of cards.
3. Player will cut the deck. The Deck Handler will turn the NEXT card up. This is the card that the Landing Recorder will write on your ticket. Please be sure to verify your ticket and

the Landing Log Sheet.

4. Proceed to the next checkpoint of your choice.
5. Repeat the above at 5 checkpoints.
6. When the five (5) checkpoints are visited and five (5) cards are selected and recorded, turn in tickets at last checkpoint visited.

The brochure indicated that in the past the highest **poker** hand received thirty percent of the ticket sales, the second highest **poker** hand received 10 percent, the third highest received one hundred fifty dollars and the low **poker** hand received five percent. There is also a drawing for a cash prizes.

Enclosed is a copy of a prior opinion of this office to you dated May 4, 2005 which I believe is also responsive to the question of whether the referenced “**Poker Run**” would be **legal** in this State. In that opinion this office concluded that an event described as “River Rally” constituted a lottery which is prohibited under state law. According to the description of that event as provided to this office, boaters drew cards at different docks and at the end of the event, the individuals with the winning hands received prizes donated by sponsors. Each individual paid ten dollars per card. The opinion concluded that there were present in the event the three elements of a lottery, (1) the offering of a prize (2) for payment of some consideration (3) with the winner determined by chance. Based upon my understanding of the rules of “**Poker Run**”, such is similar to the “River Rally”. The opinion, noting the presence of a prize and payment of consideration in order to play, stated as follows:

Furthermore, it appears that the winner is determined by chance by accumulating the winning hand. While typically the determining of the winner by chance is accomplished by a random drawing at the conclusion of the lottery, it appears that the element of a random drawing is also present in “River Rally” in that the individual who is playing randomly draws the cards at different docks. The June 23, 2004 opinion previously referenced states that

“random” is a synonym for “chance”. The fact that the drawing for purposes of determining a winner is accomplished over a series of draws rather than one draw as might be done in some lotteries is, in my opinion, of no significance. The game of bingo is played by a series of drawings of numbers during the course of the game. Bingo is a game which is exempted from being considered a lottery only by the referenced constitutional provision. The inference, therefore, is that but for the exemption in the State Constitution, bingo would be considered a lottery. See, [Army Navy Bingo, Garrison v. Plowden, 281 S.C. 226, 314 S.E.2d 339 \(1984\)](#) [bingo is a lottery and is gambling].

*2 The prior opinion also noted that [S.C. Code Ann. § 16-19-10](#) prohibits lotteries utilizing cards. That provision states:

(w)hoever 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...by any undertaking whatsoever, in the nature of a lottery, by way of chances, either by dice, lots, cards, balls, numbers, figures, or tickets... is guilty of a misdemeanor....

As recognized in the prior opinion, there is no exception for lotteries conducted by or on behalf of charitable organizations.

It was also recognized in the May 4 opinion that ...[S.C. Code Ann. § 16-19-40 \(2003\)](#) prohibits any person from playing “...at any tavern, inn, store for the retailing of spiritous 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.... (emphasis added). This Office has consistently concluded that the game of **poker** is prohibited even when conducted by charitable organizations during events such as a “Monte Carlo night”. In an opinion dated April 13, 1984 it was determined that games such as **poker** played at a “Monte Carlo night” violate the various gambling stat-

utes, including [§ 16-19-40](#). The 1984 opinion reasoned cited [Holliday v. Governor of the State of South Carolina et al., 78 F.Supp. 918 \(1948\)](#), affd. [335 U.S. 803 \(1948\)](#) which “...recognizes that it is the public policy of the State of **South Carolina** to suppress gambling and that gambling in all forms is illegal in **South Carolina**.”

Consistent with the May 4 opinion, the “**Poker Run**” event would also be expressly prohibited by [§ 16-19-40](#) as the playing of “any game with cards” and would violate **South Carolina's** gambling laws. Again, the fact that the event is conducted by a non-profit entity for a charitable purpose would not change this conclusion. As stated in the prior opinion, in order for such tournaments to be made legal, legislative amendment would be necessary to exempt such game from the gambling laws prohibitions.

Sincerely,
Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Assistant Deputy Attorney General

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