

September 10, 2015

Janet Courson
ourson@co.crawford.pa.us

RE: Video Poker Machines

Dear Ms. Courson:

ISSUE: This office is in receipt of your e-mail of August 20, 2015, wherein you inquire if video poker machines are a violation of the Small Games of Chance Act (“SGOC”). You explain that a salesman informed your club that a decision out of Bucks County, Pennsylvania, stated that poker is a game of skill, not chance. You further advise that you contacted your state representative, who advised you that video poker machines are still illegal. Your club then refused to install machines. You question if video poker machines are indeed legal.

OPINION: Section 5.32(e) of the Board’s Regulations permits a hotel, restaurant, club, brew pub, or malt beverage eating place licensee to hold, or permit to be held on the licensed premises, an event, tournament, or contest, but only under certain conditions. [40 Pa. Code § 5.32(e)]. One (1) of the conditions is that no unlawful gambling may be directly or indirectly associated with any event, tournament, contest, or activity on the licensed premises. Because unlawful gambling is a violation of the Pennsylvania Crimes Code, this office cannot provide you with a legal opinion as to whether certain activities would constitute unlawful gambling. You should contact the local police, the Pennsylvania State Police, or the District Attorney’s office of your county for an official opinion as to whether certain activities would constitute unlawful gambling.

With regard to “video gambling devices,” be advised that certain machines, such as video poker machines, are considered gambling devices *per se* and their mere presence on a licensee’s premises may constitute a violation of the Crimes Code. A licensee may also be subject to citation by the Pennsylvania State Police Bureau of Liquor Control Enforcement for illegal gambling. Again, you should contact law enforcement officials on this issue.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Very truly yours,

FAITH S. DIEHL
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 15-387