

In Re: Declaratory Ruling
By the South Dakota
Lottery Commission

Ruling 97-1
"New Machines"
ARSD 48:02:03:11

STATUTE: SDCL 42-7A-41 provides in pertinent part: "The commission shall, by rule promulgated pursuant to chapter 1-26, establish an annual fee for each license not to exceed the following:...(3) Video lottery machine operator -- the greater of \$1,000 or \$100 per machine licensed:....All licenses issued by the South Dakota lottery under this section are renewable annually unless sooner canceled or terminated."

RULE: ARSD 48:02:03:11 provides in pertinent part: "A licensee shall pay the following license fees annually, as applicable:....An operator shall remit the license fee by the 15th of each month for each **new machine** licensed during the preceding month. By July 31 each year, an operator shall pay a renewal fee of \$100 for each machine licensed as of June 30 or \$1000, whichever is greater." (Emphasis added.)

ISSUE: Should "new machines" be interpreted to exclude purchased machines that are currently licensed and thus would not be required to pay the additional \$100 "new machine" license fee pursuant to the above-cited rule?

RULING: "New machine" as used in the above-cited rule is defined as any machine that is brought into service and for which the annual \$100 renewal fee has not been paid.

REASON: The additional fee is to be charged for machines new to the system.

Dated this 27th day of March, 1997.

Michael V. Braley, Chairman