

15-00499

Scott R. Letteney
Deputy City Attorney

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Stacey Salvo
Paralegal



Office of the City Attorney

Robert K. Weber
City Attorney

DATE: September 24, 2008

TO: Chief Kurt Wahlen

c: Alderman Spangenberg (w/ encl.)
Alderman Shakoor (w/ encl.)
Alderman Holding (w/encl.)

FROM: City Attorney Rob Weber

RE: Video poker/slot machines

Dear Chief:

Enclosed is a case (Champeau v. City of Milwaukee, 252 Wis.2d 604 (2002)) involving the seizure of several slot machines allegedly because they were "gambling machines" as that term is defined in Wis. Stats., sec 945.01(3).

The Court of Appeals ruled that the machines were gambling machines rather than amusement devices based on the testimony of a Milwaukee police officer to the effect that the machines: (1) used "knock-off" switches allowing the owner to reset the machines; (2) recorded the number of free replays which could be "knocked off" or redeemed; (3) changed the ratio of free replays awarded depending on the amount of the wager; and (4) had in/out meters to keep track of the money placed in the machines and the amount of credits redeemed.

The Court ruled that because they were "gambling machines," the City did not have to prove that actual payouts were made in order to keep them as contraband.

I am in the process of obtaining a copy of the portion of the trial transcript involving Officer Wilcox's testimony, in the event the Common Council wishes to follow Milwaukee's lead in seizing such machines.

My question to you is whether Racine currently has, or can have, an officer trained as an expert in this matter, who can testify as Wilcox did – or, if not, whether we have an agreement with Milwaukee or a similar agency which would allow us to use an officer as an expert?

RKW/kjg

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October 16, 2008

Michael E. Nieskes
Racine County District Attorney
730 Wisconsin Avenue
Racine, WI 53403-1238

Re: Video Gaming Machines

Dear Mr. Nieskes:

I was recently asked by the Racine Common Council to address the issue of video gambling machines in convenience stores/gas stations/Class "A" establishments.

Enclosed is a letter and various attachments I sent to our state legislators. Quite frankly, since state laws on the subject appear to have come about as a series of haphazard compromises among many special interest groups, I do not anticipate any new legislation – at least not in the foreseeable future.

I would note that the Champeau case referenced in my letter appears to give the City civil authority to confiscate video gambling machines as contraband. To that end, we have contacted Detective Dan Wilcox in the Milwaukee PD Vice Control Division who sent me the 10/14/08 memo also enclosed. He was the officer who testified in the Champeau case that the "amusement devices" proliferating in Class "A" establishments are, in fact, gambling machines. It is my understanding that he has been "loaned out" to other agencies – see his letter of 3/27/03 – to testify as an expert on the issue.

Your office also has authority under the criminal statutes to prosecute owners/licenseses for violations as Class I felonies.

What I would like to propose is that the appropriate person from your office, myself and Chief Wahlen meet at a mutually convenient time in the near future to discuss a potential approach to this issue. It might never go further than a similar notification letter referenced in the Kramer case, but if it does, I would like to proceed in a uniform manner.

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Rather than requiring the Chief to have one of his officers trained in the area, we could perhaps prevail on the Milwaukee Police Chief to utilize the services of Detective Wilcox.

In an event, I will have my assistant, Kelly Graham, contact you and the Chief to discuss possible meeting dates. Thank you for your anticipated courtesy.

Sincerely,



Robert K. Weber

RKW/kjg

Enclosures

c: Dan Wilcox (w/ attachments)
Chief Wahlen (w/ attachments)
Alderman Spangenberg (w/ Wilcox attachment only)

Office of the City Attorney

Robert K. Weber
City Attorney



City of Racine, Wisconsin

Scott R. Letteney
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Nicole F. Loop
Assistant City Attorney

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Paralegal

December 17, 2009

RE: Video Gaming Machines

Dear Class A License Holder:

Approximately one year ago, my office and the Racine County District Attorney's office sent all Class A license holders the enclosed letter which clarified the law regarding "gambling machines" and which provided a warning to the effect that complaints regarding such machines would result in investigations and potential felony prosecutions and/or license revocations.

During the 2009 calendar year, the number of gaming machines appears to have proliferated rather than abated, and there have been a number of complaints made by City residents.

Consequently, I have requested the appropriate law enforcement authorities to enforce the very clear laws/ordinances on the subject, and I would urge you to return to your vendor(s) any "gambling machines" as that term is defined in section 945.01(3) of the Wisconsin Statutes by the end of this calendar year or face the potential consequences.

Thank you for your anticipated courtesy and cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert K. Weber", is positioned below the word "Sincerely,".

Robert K. Weber
City Attorney

RKW/kjg

c: All Aldermen
City Administrator Tom Friedel
Mayor John Dickert
Richard Chiapete, Deputy District Attorney, Racine County

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