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S.C. court says poker can pay off

Video card games not just amusement

■ Kidnapping sentence upheld, 3B
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South Carolina's Supreme Court dealt a low card Monday to federal authorities who've tried to crack down on cash payoffs on video poker machines.

The state's high court said cash payoffs are legal under South Carolina's gambling laws. The law forbids machines that pay winners, but is silent about people who do. Video poker players collect money for their accumulated winning hands from bartenders or convenience store clerks.

The opinion could preserve what some estimate to be \$30 million a year in licensing fees the state collects for the poker machines.

That's what the state stood to lose if the machines dwindled in popularity or disappeared altogether if payoffs were outlawed. Although most video game machines can be licensed for less than \$50, the state collects \$1,500 on every poker machine.

Monday's opinion also is expected to figure heavily in Operation Busted Flush, a federal case that hinged on payoffs Lancaster County bars and

corner stores made to people who played electronic poker machines.

In January, U.S. District Judge Joseph Anderson Jr. threw out federal gambling charges against 12 Lancaster County residents, saying they couldn't be prosecuted under federal law if they hadn't violated state gambling laws. Anderson also ordered government agents to return 300 poker machines confiscated in the Lancaster area.

The state Supreme Court said the Legislature has resisted several opportunities to prohibit payoffs on poker machines, making it clear that lawmakers intend to let the practice continue.

John M. Barton, chief of the criminal division in the U.S. attorney's office, said Monday the Supreme Court's opinion will affect how the government plays what cards it has left on the poker issue.

"Needless to say, this will have an impact on our appeal, but until we've had a chance to thoroughly analyze the opinion and discuss it with the solicitor general's office in Washington, we can't say with any certainty what that impact will be," Barton said.

The Supreme Court ruling came in

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the case of Lancaster County grocer Terry Blackmon, who kept several poker machines in his store. Investigators witnessed cash payoffs and obtained a search warrant for Blackmon's business. Records they found included 111,566 vouchers for \$358,336.75 in payoffs, a membership book containing 248 names of regular players and videotapes that verified free games won and payments made.

But a circuit court judge said Blackmon hadn't broken any gambling laws and dismissed the charges against him. The state appealed.

Barton participated in the Supreme Court arguments that ensued

because of the federal government's interest in electronic poker.

Columbia attorney Jack B. Swerling, who represented Blackmon, said the decision could wipe out the federal cases in Lancaster County.

"It certainly will help us on the appeal to the 4th Circuit Court of Appeals in Richmond (Va.)," Swerling said. "We're naturally elated, not just for the people like Terry Blackmon who rely on poker machines to enhance their business, but for the state of South Carolina as well. This opinion could mean substantial revenue for the state."

Swerling said his clients and thousands of other small business people like them would not have poker machines in their establishments if payoffs were illegal.

"That is one of the features that makes these machines a drawing

card," Swerling said. "That's one of the reasons they are popular."

The Supreme Court's decision bolstered what distributors of poker machines have said from the outset of the controversy over payoffs, that refunding a winning player's money isn't illegal gambling.

"All refunds aren't gambling," Fred Collins of Greenville said when the license increase was being debated. Collins is owner of Collins Coin Music Co., one of the largest distributors in the state.

Asked how the refunds differ from gambling, Collins said, "Gambling is gambling, and a refund is a refund, and that's what the officials don't understand."

Only the winners get refunds, he said. The loser has to be satisfied with the entertainment of playing the machine.