

**IN RE:**

**DECLARATORY RULING  
BY THE SOUTH DAKOTA  
LOTTERY COMMISSION**

**RULING 90-4  
ARSD 48:02:05:02(4)  
Training Seminars Conducted  
by Operators**

**RULING:** It is the duty of licensed manufacturers and distributors to provide technical assistance and training in the service and repair of the machines and associated equipment manufactured and sold to operators for placement in the state to ensure the continued, approved operation and play of the machines. ARSD 48:02:05:02(4) and 48:02:05:03(4). No video lottery machine may be placed in operation in the state until the manufacturer or distributor provides training in the service and repair of the approved machine model and the operator and its service agents complete the training.

Both initial and subsequent training in the service, maintenance and repair of machines is essential to ensure the success of the video lottery industry. Adequate training seminars must be made available on both a timely basis and in locations that encourage attendance by operators and their service agents.

It is imperative that the individual conducting the seminars is knowledgeable on all aspects of the maintenance, service and repair of the machine model approved for placement and operation in the state. Operators who have received instruction and possess first-hand experience in the maintenance and repair of a particular machine model should not be restricted from sharing this information and instructing other operators and service agents in meeting the above training requirements.

Therefore, manufacturers and distributors may contract with a licensed operator to conduct training seminars on the service, maintenance and repair of its machines in meeting the requirements of ARSD 48:02:05:02(4) and 48:02:05:03(4). Such an arrangement is conditioned on the following:

1. The training performed by an operator for a manufacturer or distributor must be under a contractual basis only and compensation paid on an hourly basis for consultant training services provided. The prohibitions on vertical interpretation in SDCL 42-7A-42 mandate that an operator may not be an employee of a manufacturer or distributor. Provided the arrangement for training meets the above qualifications, an operator is not considered an employee.
2. The manufacturer or distributor must file all required training course offerings outlined in ARSD 48:02:10:02 that includes listing the instructors and their qualifications.

Dated this 21st day of March, 1990.

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Jack Theeler, Chairman