WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-1436

COUNTIES:
A County May License and
Tax Jukeboxes

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Honorable William J. Cowlin
State's Attorney
McHenry County
2200 North Seminary Avenue
Woodstock, Illinois 60098

Dear Mr. Cowlin:

This responds to your letter wherein you inquired whether McHenry County, a non-home rule county, is authorized to license and tax jukeboxes.

The Coin-Operated Amusement Device Tax Act (Ill. Rev. Stat. 1977, ch. 120, pars. 481b.1 through 481b.16) authorizes the State and counties to tax coin-in-the-slot-operated amusement devices. Section 1 of this Act (Ill. Rev. Stat. 1977, ch. 120, par. 481b.1) provides as follows:

> "There hereby is imposed, on the privilege of operating every coin-in-the-slot-operated amusement device in this State which returns to the player thereof no money or property or right to receive money or property, an annual privilege tax of $10.00 for each coin-receiving slot."

The authority for the county to impose a tax or license fee for coin-in-the-slot-operated amusement devices is found in section 7 of this Act (Ill. Rev. Stat. 1977, ch. 120, par. 481b.7) which provides as follows:

> "The right to tax the games or devices described in this Act is not exclusive with the State of Illinois, but municipalities of the State of Illinois shall have the right to impose taxes or license fees thereon and to regulate or control the operation of the same within such municipalities as provided in Section 11-55-1 of the Illinois Municipal Code, as heretofore and hereafter amended and counties of the State of Illinois shall have the right to impose taxes or license fees thereon in unincorporated territory and to regulate or control the operation of the same within such territory as provided in Section 25-22 of 'An Act to revise the law in relation to counties', approved March 31, 1874, as now or hereafter amended."

Amusement devices are not defined in the statute. Words used in a statute should be given their commonly accepted or popular meaning. (People v. Jensen (1945), 392 Ill. 72.) Courts will apply to words appearing in legislative enactments the common dictionary meaning or commonly accepted use of the words unless the words are otherwise defined by the General Assembly. (Bowes v. City of Chicago (1954), 3 Ill. 2d 175.) The word "amusement" is defined in Webster's New World Dictionary (Second College Ed. 1976) as follows:

> "1. the condition of being amused."

The word "amuse" is defined as follows:

> "1. to keep pleasantly or enjoyably occupied or interested; entertain. * * *"

A jukebox is a device which keeps one pleasantly or enjoyably occupied, interested, or entertained. McHenry County, therefore, is authorized to levy a tax on a coin-in-the-slot-operated jukebox which is displayed for playing or operation by the public. The State taxes jukeboxes under the Act.

In your second question you ask if McHenry County may license and tax jukeboxes, would the maximum tax be limited to $10 per year. The tax payable to the State is fixed at $10 per year for each coin-receiving slot under the provisions of section 1 of the Coin-Operated Amusement Device Tax Act (Ill. Rev. Stat. 1977, ch. 120, par. 481b.1) previously quoted. There is no such limitation fixed in the case of a county license fee or tax. The maximum license fee or tax that a county can impose for the privilege of displaying a jukebox to be played or operated by the public is discussed later in this opinion.

In your third question, you asked whether your county may enact a general application and investigation fee of $100 for the display of a jukebox for public use in addition to a $10 per jukebox tax. Under the provisions of section 7 of the Coin-Operated Amusement Device Tax Act (Ill. Rev. Stat. 1977, ch. 120, par. 481b.7) previously set forth, a county has the right to impose taxes or license fees and to regulate or control the operation of a coin-in-the-slot

amusement device such as a jukebox. Although the statute does not expressly say that an application and investigation fee may be charged, such may reasonably be implied. An application and investigation may be necessary to regulate or control effectively the displaying of jukeboxes. A statutory grant of power or right carries with it, by implication, everything necessary to carry out the power or right and make it effectual and complete. (Euziere v. Highway Commissioners of Town of Rockville (1931), 346 Ill. 131; People ex rel. DuPage County v. Smith (1961), 21 Ill. 2d 572.) Whether a $100 application fee would be proper is something that you will have to determine. An application and investigation fee is a regulatory measure. The amount of a fee levied solely as a regulatory measure should bear some reasonable relation to the additional burden imposed on the public by the business or occupation to be licensed. (Bauer v. City of Chicago (1926), 321 Ill. 259.) In other words, the amount of the application and investigation fee is limited to an amount which bears a reasonable relation to the expenses of processing the application and making any initial investigation required. An amount that is reasonable in one county may not be reasonable in another. I am therefore not in a position to pass upon the precise amount of an application and investigation fee that your county might charge.

In addition to or as an alternative to an application and investigation fee, your county could establish a license fee or tax, initially or annually. If the ordinance and the license fee were adopted as regulatory measures, the amount of the license fee could be established to defray all or part of the cost of the regulation and expenses. (Crakerjack Co. v. City of Chicago (1928), 330 Ill. 320; Larson v. City of Rockford (1939), 371 Ill. 441.) As I have already mentioned, the amount of a license fee levied solely as a regulatory measure should bear some reasonable relation to the additional burden imposed and the necessary expense involved in supervision. Lamere v. City of Chicago (1945), 391 Ill. 552; City of Chicago Heights v. Western Union Telegraph Co. (1950), 406 Ill. 428.

In addition to the right to impose a license fee as a regulatory measure, the language of the statute is broad enough to permit a county to impose a license fee or tax as a revenue measure or as a regulatory and revenue measure. Section 7 of the Coin-Operated Amusement Device Tax Act (Ill. Rev. Stat. 1977, ch. 120, par. 481b.7) states that counties shall have the right to impose taxes or license fees. A right to impose taxes is a revenue measure. Thus, the county may impose a license fee or tax for revenue or for revenue and regulation. Under authority given by a statute to tax and license, the relation between the fee charged and the public burden imposed

is not involved. (Village of East Alton v. Arst (1944), 386 Ill. 224, 227; Metropolis Theatre Co. v. Chicago (1910), 246 Ill. 20, 24.) When licensing for revenue or regulation and revenue, the extent of the revenue tax is a matter within the discretion of the legislative body imposing the tax. 51 Am. Jur. 2d Licenses and Permits § 118 (1970).

Very truly yours,

ATTORNEY GENERAL