

## **Appeals court says phone cards not illegal gambling**

By Estes Thompson

The State

September 6, 2005.

SOUTH CAROLINA--Promotional game pieces packaged with telephone long-distance cards aren't part of an illegal lottery as state agents allege, the state Court of Appeals ruled Tuesday.

The court upheld a lower court judge who ruled against the state Feb. 17, 2004, in a case against Treasured Arts Inc., a South Carolina company that sold the cards at convenience stores in North Carolina.

State lawyers haven't decided about whether to pursue further appeals, a spokeswoman for state Attorney General Roy Cooper said Tuesday. Since the case started, lawmakers have approved a state-run lottery.

The cards offered scratch-off game pieces with prizes worth up to \$50,000, as well as cars, the court said.

State alcohol agents in 2001 or 2002 threatened the stores' alcohol licenses, saying the card sales were an illegal form of gambling. But the court said customers had the choice of registering for the giveaway without buying a phone card and noted that the phone cards provide a service.

The case came to the appellate court after the lower court ruling stopped agents from threatening store owners. The state hasn't charged anyone, the opinion said.

The decision also noted that since the promotion began in 1995 until the time of the hearing, Treasured Arts sent free game pieces to 11,664 people and had given prizes to about 8,000 people.

Evidence showed that the 50-cent-a minute rate for the phone cards was reasonable enough that customers would have bought them even without the possibility of winning a prize, the court said.

"We hold the price paid for and the value received from the prepaid phone cards is sufficiently commensurate to support the determination that the sale of the product is not a mere subterfuge to engage in an illegal lottery scheme, whereby consideration is paid merely to engage in a game of chance," the opinion said.