

LOTTERY - Premium coupon books.

November 1, 1938

Honorable Walter G. Stillwell
Prosecuting Attorney
Marion County
Hannibal, Missouri



Dear Sir:

We have your request of October 29, 1938 for an opinion, which in part is as follows:

"The Klump Oil Company, who operate a filling station in the city of Hannibal, have been distributing promiscuously certain coupon books which in substance are presented by the purchaser of gasoline or other petroleum products at the time of purchase and in accordance to the amount purchased stamps are placed in the book by employees of the Klump Oil Company. After the book has been filled the seal on the book is removed and the holder of the book received a certain gratuity, such as gasoline or merchandise. Evidently a small illustrated leaflet is distributed promiscuously throughout this city and the name of the distributor of the leaflet is written thereon and it is handed to a prospective customer and the person whose distributees make the most purchases receives a radio free. For the convenience of this office, I am enclosing one of these small leaflets and also the stamp book which in reality are self-explanatory."

In Missouri, a lottery is any scheme or device wherein anything of value, is for a consideration allotted by chance.

In the present case, people purchase oil and pay for it and receive a coupon book, and stamps representing each purchase are pasted in the coupon book. This constitutes consideration. The prize in the case, in the coupon book handed to us, is four quarts of oil. Prizes may consist of 5 gal. gasoline; grease job; oil change; 1 gal. Phil-A-Penn Oil, 50¢ in cash; \$1.00 in cash; \$2.00 in cash; \$5.00 in cash or \$10.00 in cash. These constitute a prize.

The element of chance is involved in the distribution of the coupon book. There is attached to each coupon book a seal, under which is hidden the name of the prize. No one can tell what the prize is that he is to receive. This, therefore, constitutes chance, the same as if numbers were drawn out of a hat, upon which was written the prize that the contestant would receive.

Some of the cases in this state interpreting the lottery laws are State ex inf. McKittrick vs. Globe-Democrat Publishing Company, 110 S. W. (2d) 705; State vs. Emerson, 1 S. W. (2d) 109; State ex rel. vs. Hughes, 299 Mo. 529; 253 S. W. 229; 28 A.L.R. 1305; State vs. Becker, 248 Mo. 555, 154 S. W. 769.

It is, therefore, the opinion of this office that the "Bonded Customer Dividend Plan", as distributed by the Klump Oil Company, is a lottery, in violation of Section 4314, R. S. Mo. 1929.

Respectfully submitted

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Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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