

GAMBLING DEVICE: Slot machines which pay off in cigarettes handed to player by owner of establishment are gambling devices. 13

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Honorable W. A. Kelso
Prosecuting Attorney
Neuada, Missouri

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Dear Sir:

This Department is in receipt of your request for an official opinion, which reads as follows:

"Certain merchants here have been approached on the subject of operating cigarette 'machines.' These machines are operated by dropping a penny in a slot. For each penny dropped the player receives a ball of gum. There are certain wheels which spin in different directions and when stopped form combinations of numbers or figures which when in certain sequences entitle the player to a package of cigarettes which are handed to the player by the merchant in whose place the machine is located. Are such machines gambling devices or 'slot machines?'"

Section 4675, R. S. No. 1939, provides as follows:

"Every person who shall set up or keep any table or gaming device commonly called A B C, faro bank, E O, roulette, equality, keno, slot machine, stand or device of whatever pattern, kind or make, or however worked, operated or manipulated, or any kind of gambling

table or gambling device adapted, devised and designed for the purpose of playing any game of chance for money or property and shall induce, entice or permit any person to bet or play at or upon any such gaming table or gambling device, or at or upon any game played or by means of such table or gambling device or on the side or against the keeper thereof, shall, on conviction, be adjudged guilty of a felony, and shall be punished by imprisonment in the penitentiary for a term of not less than two nor more than five years, or by imprisonment in the county jail for a term not less than six nor more than twelve months."

In State v. Follnow, 14 S. W. (2d) 574, the Supreme Court of Missouri had before it a person convicted of setting up and keeping a gambling device. According to the opinion the machine was of the following nature:

"It was operated by putting a nickel in the slot and taking out mint or something of the kind. The machine itself, as reconstructed, did not pay the player when he won. The winner was paid by the man in whose place the machine was operated."

The court held that,

"The evidence sufficiently shows that it was a gambling device, * *"

In State v. Godos, 39 S. W. (2d) 784, a similar device to the one described in your opinion request was held to be a gambling device under Section 4675, supra.

Conclusion

It is, therefore, the opinion of this Department that a machine which is operated by dropping a penny in a slot and

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a lever is pushed and certain wheels spin in different directions and when stopped form combinations of numbers and figures, which, when in certain sequences, entitle the player to a package of cigarettes which are handed to the player by the merchant in whose place the machine is located, "is a slot machine and a gambling device" and prohibited by Section 4675, R. S. Mo. 1939.

Respectfully submitted,

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APPROVED:

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