

S. CRIMES AND PUNISHMENT:-Under Section 4287, R. S. Mo. 1929,  
it is unlawful to operate slot machines.

September 11, 1934.



Mr. O. K. Armstrong,  
1074 North Clay,  
Springfield, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"There seems to be a great difference of opinion over the state as to whether or not the operation of so-called slot machines is legal in Missouri. I wish you would kindly give me an opinion on that subject.

"What I have in mind, of course, are the machines that 'play' money, or its equivalent; nickels, dimes, quarters, and the like; or slugs that can be bought or exchanged for money.

"Differences of opinion on this subject, as to whether or not slot machines violate state laws against gambling, extend to the prosecuting attorneys of the various counties, some ruling one way, and some another. It seems to me that a clear-cut ruling from your office would be valuable."

Section 4287, R. S. Mo. 1929, 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 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."

Under the foregoing section we conclude that it is illegal to operate a slot machine in this State, whether they pay in money or slugs that can be exchanged for money or merchandise. As a matter of fact, the above section specifically prohibits the operation of a slot machine. In *State v. Pollnow*, 14 S. W. (2d) 574, the defendant was convicted of keeping a gambling device in the form of a slot machine and his conviction was affirmed by the Supreme Court. In that case the Court described the machine as follows:

"It was operated by putting a nickel in the slot and taking out mint or something of the kind. The machine itself, as re constructed, did not pay the player when he won. The winner was paid by the man in whose place the machine was operated. Peikert testified that the winner who put his nickel in the slot was not paid out of the machine, but Peikert himself paid the money out of his pocket, and he was reimbursed by the earnings of the machine, which came into an aluminum box, attached to the left side and kept locked. The evidence sufficiently shows that it was a gambling device, cleverly constructed in an attempt to evade the law."

In *Moberly v. Deskin*, 169 Mo. App. 672, the conviction for operating a gambling device in the form of a slot machine was also affirmed. In that case the machine was termed an 'Automatic Gum Vender.' The machine was operated by either placing a nickel or a metal trade check into the slot and the machine always delivered a package of gum, and at various occasions a quantity of trade checks which were redeemable with the owner of the place of business. The Court, in discussing the gaming device, says:

"In legal significance the term 'gaming device' and 'gambling device' are synonymous (*State v. Mohr*, 55 Mo. App. 329) and include all instruments, implements, devices and means which are made and used in unlawful gaming."

Mr. O. K. Armstrong,

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In view of the foregoing section and decisions, we are of the opinion that it is illegal and unlawful to operate a gaming or gambling device in the form of a slot machine in this State.

Very truly yours,

FRANK W. HAYES,  
Assistant Attorney General.

APPROVED:



(Acting)

Attorney General.

FWH:MS