

GAMBLING DEVICES - "ROCKET" and "SPORTSMAN" machines.

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4-9  
April 4, 1934.



Honorable John S. Phillips  
Prosecuting Attorney  
Butler County  
Poplar Bluff, Missouri

Dear Sir:

We have your request of March 23d requesting an opinion from this office upon whether or not two games, called the "Rocket" and "Sportsman", constitute a gambling device under the state law. For convenience, we will subdivide the opinion and treat each machine separately.

The "Rocket" Machine

From the pamphlet furnished us, we quote the following excerpts relative to the "Rocket" machine:

"6 Payouts Possible On 1 Coin"

"And think of the thrill of getting 6 PAYOUTS ON 1 COIN. . . 6 SEPARATE PAYOUTS WHILE 1 GAME IS BEING PLAYED . . . payouts that increase in value as the player shows more and more skill . . . payouts that are PAID AUTOMATICALLY . . . practically dropping into the player's hand!"

"The minute the player makes the lowest possible winning score . . . sowie! Out pop 2 coins!"

"And, last but not least, a perfect score . . . the highest possible score on the board . . . releases AN AUTOMATIC JACK-POT OF 14 COINS! This thrilling Jack-Pot can be won only on the very last ball . . . and is, therefore, the grand climax, the thrill supreme that keeps players pouring money back into the machine . . .

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hour after hour . . . day after day . . .  
month after month . . . earning SLOT MACHINES  
PROFITS with a LEGAL GAME OF SKILL!"

"The clever cabinet design of ROCKET enables you to operate this revolutionary profit-producer anywhere . . . in "open" or "closed" territory. Turn to last page of circular for complete details of this amazing "closed" territory feature."

"Location owner may be given key to payout door. Rewards are then made from one of the two score cards (numbers and color combinations) furnished with each machine. Merchant pays out merchandise or other awards and reimburses himself at the end of each day by opening up payout box."

From the above and foregoing, it is apparent that this machine is a device, designed for gambling, and comes partly within the criminal offense defined in part by Section 4287 R. S. No. 1929 as follows:

"Every person who shall set up or keep any table or gaming device \* 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 \* shall, on conviction, be adjudged guilty of a felony, \* \* "

The "Rocket" machine has all the gambling elements of lottery, namely, consideration, chance and prize. State v. Emerson, 1 S. W. (2d) 109, (1927).

With reference to the operation of this machine in "closed" territory, the payoff is transferred from the machine to the operator or owner of the place where the machine is operated, and the merchant or operator pays off with merchandise, and obtains his reimbursement of the costs of such merchandise

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by taking from the machine the coins that accumulate in the locked payoff chamber. In other words, the "closed" territory in the machine is so devised and designed that the winning coins may be collected in a locked box by the merchant or operator who pays the winning scores with merchandise, and keeps the winning coins taken from the payoff box. It is immaterial in this state whether the machine pays off or whether a payoff is made directly by the operator or merchant in whose place of business the machine is located. If the operator or merchant makes the payoff, it is nevertheless a gambling device. State v. Follmer, 14 S. W. (2) 574, (1928).

It is, therefore, the opinion of this office that the "Rocket" machine is a gambling device and cannot be operated without violating the gambling laws of this state.

#### The "Sportsman" Machine

An examination of the circular relating to the "Sportsman" machine reveals the following statements concerning its operation:

"Payout Pin Table"

"With Perfect Automatic Payout"

"The payout combinations are made by shooting balls into holes representing two or more birds or fowl of the same kind."

"The payout varies from 3 to 27 amusement tokens and only three skillful shots are required to pick a winner."

"Unrivaled profits"

It is apparent from an examination of the circular relating to this machine that it, too, is a gambling device and comes within the prohibition of the criminal law and part of Section 4287 R. S. No. 1929, as above set out.

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It is, therefore, the opinion of this office that the "Sportsman" machine is a gambling device, the use of which is unlawful and is prohibited by the law of this state.

Yours very truly,

FRANKLIN E. REAGAN  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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