

GAMBLING - Weekly drawings.

12-18

December 17, 1935

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Honorable Melvin Englehart
Prosecuting Attorney
Madison County
Fredericktown, Missouri

Dear Sir:

We have your request for an opinion under date of December 12, 1935, which request is as follows:

"Mr. R. operates a Drug Store. He keeps a book on the counter of his store, for the purpose of writing the names of persons who enter his store. It is not necessary that a person make a purchase to have his name written in this book and after the name is written each person is given a number. Every Saturday of each week, a drawing is made in either St. Louis or Chicago, Ill., and this determines which of the persons, whose names are written in this book, is to receive a prize of a sum of money. The number is posted on the front of the store at noon of each Saturday and remains there until three o'clock P.M. in the afternoon and if the person who has the number calls, at the store, he receives the prize. If the person whose number was selected, does not call, the prize is added to the prize of the next week. One registration is sufficient. The only necessary action is to register and come to the store to get the prize."

By Section 4314, R. S. Mo. 1929, lotteries and gift enterprises are made criminal offenses. The

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three elements essential to constitute any scheme or drawing a lottery are:

Prize, chance and consideration.

It would appear from your letter that these three elements are present, and may be outlined as follows:

- 1st. Prize - A sum of money.
- 2nd. Chance - A drawing, and the holder of the lucky number is declared the winner.
- 3rd. Consideration - In requiring people to come to the store to register, and to come to the store to receive the prize. The fact that people are required to do something, walk or ride to the store, and come in and register, is sufficient consideration.

The above elements of consideration, chance and prize are fully commented on in State v. Emerson, 1 S. W. (2d) 109.

It is, therefore, the opinion of this office that the drawing scheme of the drug store outlined in your letter constitutes a lottery within the provisions of the above section.

Yours very truly,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

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