

GAMBLING: Shooting gallery

September 3, 1937



Honorable Douglas Mahnkey
Prosecuting Attorney
Taney County
Forsyth, Missouri

Dear Sir:

We have your request of August 31, 1937, for an opinion, which reads as follows:

"The operator posts \$5.00. He charges 10 cents for three shots. At every 40 cents taken in the operator adds 5 cents to the "Pot" that is the original \$5.00. The party who is able to make a certain mark receives the "pot" and the fund is allowed to run until someone achieves the mark."

From the above and foregoing it would appear that the shooting gallery is a gambling device and, therefore, prohibited by law.

In *Commonwealth v. Plissner*, 4 N. E. (2d) 241, the Supreme Court of Massachusetts held a grabbing machine played by the skill of the operator was a gambling device. Other so-called games of skill, such as throwing a ball on a dart game, have been held to be gambling devices. *People v. Baddaty*, 30 Pac. (2d) 634, and *State v. Schwenter*, 60 Pac. (2d) 938.

It is, therefore, the opinion of this office that the machine described in your letter as a shooting gallery is a gambling device.

Respectfully submitted

APPROVED:

FRANKLIN E. REAGAN
Assistant Attorney General.

J. E. TAYLOR
(Acting) Attorney General

FER:AH