

LOTTERY - "Win-O" game operated by theatre is a lottery.

May 24, 1937.

6-25



Hon. Claude T. Wood,
Prosecuting Attorney,
Richland, Missouri.

Dear Sir:

We have your request of May 21st, 1937, for an opinion, which is as follows:

"Will you please furnish me your official opinion as to whether the game of "Win-O" is in violation of the criminal statutes of this state?"

"The game of "Win-O" as now being conducted at the Crocker Theater, at Crocker, Missouri, is played about as follows:

"Patrons of the theater upon entering the theater are each given a card with several numbers upon it. During the evening and at the end of the first show, the lights are turned on in the theater. A large dial, with a revolving hand upon it, is placed in the front of the theater. The hands upon this dial are electrically controlled. The management of the theater carries a long electric cord to and from about the house, having various patrons to press the button upon the cord. This causes the hand upon the dial to revolve. Each time the button is pressed by a patron, the number on the dial at which the hand stops is called out and same noted by every patron playing the game. This is continued until an entire row of numbers on one patrons card has been called at which time this patron calls out "Win-O" and for this, said patron receives a cash prize from the management of the theater. No extra price is charged for the numbered card, same being given to the patron with his ticket. Neither is there any increase in the price of the admission ticket---the admission tickets being sold for the regular price of twenty-five cents. The winning patron not only gets to see the picture but also gets his cash prize in addition and all for the single price of a regular admission. The management of the theater stated to the writer that the purpose of the game was to stimulate attendance at the theater and that the same had greatly increased the attendance at the theater.

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Persons not buying admission tickets and attending the show are not given "Win-O" cards and not allowed to play the game.

"I shall greatly appreciate having this opinion at your earliest possible convenience."

The proposed scheme of "Win-O" involves a distribution of prizes, for consideration, which are awarded by the spin of the wheel, or by chance. These are the three essential elements of a lottery. 4314 R. S. No. 1929; State v. Emerson, 1 S.W. (2d) 109.

There does not have to be any increase in the admission price of the ticket in order to establish consideration in this case for lottery. The admission price paid by the patrons of the theatre pays for both the right to see the show and the chance they get in this game. No additional payment is required. Featherstone v. Independent Service Station (Texas) 10 S.W. (2d) 124; City of Wink v. Griffith Amusement Co. (Texas) 100 S.W. (2d) 695.

This office in previous opinions has held that such games as "Hollywood" "Screens" "Pay-Off" "Bank Night" "Suit Clubs" "Rocket Machines" "Whiffle Boards" and "Ball Machines" are all violations of the criminal code of this state, in that they attempt to award prizes for consideration by chance.

It is, therefore, the opinion of this office that the game of "Win-O" is prohibited by the criminal code, and is a lottery.

Respectfully submitted,

FRANKLIN E. REAGAN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General.

FEB/LD