

LOTTERIES--DRAWINGS.

February 4, 1938

27

Hon. Charles D. Brandom  
Prosecuting Attorney  
Daviness County  
Gallatin, Missouri



Dear Sir:

We have your request for an opinion as to merchants giving away tickets with each purchase, and the tickets being put in a large container and once or twice a week being drawn therefrom, and the persons whose names appear on the tickets thus drawn are given prizes.

A lottery is any scheme or device whereby anything of value is, for a consideration, allotted by chance. State vs. Emerson, 318 Mo. 633, 1 S. W. (2) 109, 111; State ex rel. vs. Hughes, 299 Mo. 529, 253 S.W. 329, 28 A.L.R. 1305; State vs. Becker, 248 Mo. 55, 154 S. W. 769.

The Court in Valhalla Hotel & Company vs. Carmona, 44 Phillipine, 233, l. c. 242, said:

"While ingenuity is continually at work to evolve some scheme which is within the mischief but not quite within the letter of the law--we propose to go beyond the shell to the substance and to condemn the same."

Hon. Charles D. Brandom

-2-

February 4, 1938

CONCLUSION

It is therefore the opinion of this office that the drawing as outlined in the above statement constitutes a lottery in violation of Section 4314 R. S. Missouri 1929.

Yours very truly,

FRANKLIN E. REAGAN,  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

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