

LOTTERIES:  
GIFT ENTERPRISES:

An operation whereby a school issues numbered receipts for ten cents each, or twelve for \$1.00, which receipts entitle the holder to a chance for a prize, contains the elements of a lottery and is, therefore, illegal.



November 16, 1953

Honorable Harold W. Barrick  
Prosecuting Attorney  
Pettis County  
Sedalia, Missouri

Dear Sir:

You have submitted to this department a request for an official opinion based upon facts which may be summarized as follows:

An organization here in this county is receiving from persons making donations, sums of money in return. For such donation a numbered receipt is issued with the number of free tickets being based upon the number of 10-cent donations made.

We also gather from your letter and the enclosed "receipt" that prizes consisting of turkeys will be awarded to persons making donations who have not indicated precisely how the distributees of such prizes will be determined, but we assume that such distribution will be upon the basis of a drawing of numbers or by lot. You have inquired if such a scheme amounts to a lottery.

Enclosed is an opinion rendered by this department on March 17, 1953, to Honorable Douglas W. Green, Prosecuting Attorney of Greene County. From a reading of this opinion you will note that Missouri law (Sec. 563.430, RSMo 1949) prohibits a "lottery." You will further note that this opinion holds that a "lottery" is composed of three elements, to-wit: prize, chance, and consideration.

Honorable Harold W. Barrick

Let us now examine the operation involved in the instant case in order to determine whether the elements necessary to constitute a lottery are present. It is, of course, obvious that the elements of "chance" and "prize" are present, because, while the "receipt" does not say so, it clearly implies that a "drawing" will be held to determine which persons receive the ten FREE turkeys, thus bringing in the element of "chance." The turkey, of course, constitutes the "prize".

A reading of that portion of the Green opinion relating to "consideration" (beginning with the last paragraph on page 4) would seem to make it plain that the money paid for tickets (10 cents for one ticket; 12 tickets for \$1.00) which entitle the holder to a "chance" for a "prize" (a turkey), does constitute "consideration".

It might perhaps be argued that the money paid for the tickets was what the ticket itself stated it to be, to-wit, a "donation"; but if it is a pure "donation" why then is a prize offered which entitles the maker of each "donation" eligible for the prize? Obviously, to induce "donations" in which case the money paid would certainly constitute "consideration".

We believe, therefore, that in the operation which you outline, the three elements necessary to constitute a lottery are present; that the operation is a lottery, and is therefore illegal.

#### CONCLUSION

It is the opinion of this department that an operation whereby a school issues numbered receipts for ten cents each, or twelve for \$1.00, which receipts entitle the holder to a chance for a prize, contains the elements of a lottery, and is, therefore, illegal.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

HPW/ld

JOHN M. DALTON  
Attorney General