

Gambling Law, Games Included In.

Playing cards or shaking dice for sociability, amusement, or pastime is not gambling. Playing for gain or profit is necessary to constitute gambling. As to whether treating while playing any of the games mentioned in the law is a violation thereof must be determined from the particular facts in each case by the local authorities.

As to nickle in the slot machines, the law has been construed in 26 Mont. 349.

Helena, Montana, April 26th, 1906.

Hon. H. S. Greene, County Attorney, Great Falls, Montana.

Dear Sir:—Your letter of the 24th inst., received, in which the opinion of this office is requested upon the following question:

1. Does solo, which is played in clubs or in a social way, the result of the game being that the low man shall pay for the drinks, come within the ban and intended by you to be prevented?
2. Is it intended that dice shaking is a social way at a bar shall be prohibited?
3. Are the counter card machines intended to be prohibited and put out of business?

Secs. 1 and 2 of Senate Bill No. 74, laws of 1901, page 166 define what games are prohibited as clearly as any language can make it. However, in answer to questions 1 and 2 you are advised as follows:

The law prohibits the playing of certain games and the shaking of dice "for money, checks, credits, or any representative of value, or for any property or thing whatever."

Where the object of the play is sociability, amusement or pastime, it is not gambling. When, however, the object of the game is money or merchandise, it is gambling. Treating is not prohibited by any law, either before or after any game or during the progress of the game. Playing for gain or profit is necessary to constitute gambling. Whether the game is played with reference to the treat in such manner as to violate the law must be determined from the particular facts of each case. These are minor matters and address themselves exclusively to the local authorities.

In answer to question No. 3 your attention is directed to the case of State v. Woodman, 26 Mont. 349, 67 Pac. 1118, which construes the law relative to nickle in the slot machines. From the wording of the above law it is clear that the legislature intended to prohibit any and all games of the classes therein mentioned when played for money or other things of value.

The principal object of the law is to stop all kinds of gambling in this state carried on by gamblers and gambling houses for the purpose of making money out of it, and it is to this phase of the question that your attention is especially directed. In order to fully carry out such object, the law is made very comprehensive in its terms, so that in the event that any game, which as usually played is unobjectionable, should develop into an objectionable gambling game, it can be readily stopped by the authorities under the provisions of said law.

Yours very truly,

ALBERT J. GALEN,

Attorney General.