

Gambling, Slot Machines. Slot Machines, Built for Gaming.

It is unlawful in this state to own or possess any slot machine built for gaming.

January 23rd, 1914.

Hon. B. E. Berg,
County Attorney,
Columbus, Montana.

Dear Sir:

I have your letter of the 17th instant, as follows:

"1. Is playing cards for checks, good in trade only at the house in which the game is played, in violation of the gambling law of this state?

"2. Is the operating of slot machines in which there is an element of chance, for trade checks, in violation of the gambling laws of this state?

"3. a. Where something of trivial value is given with the purchase of each check played in the machine? (b.) Where nothing is given with each chance?"

In regard to the first proposition advanced by you, your attention is directed to two former opinions of this office found respectively in Volume 2 of the Opinions of Attorney General at page 172, and Volume 4 of the Opinions of Attorney General at page 255.

As to the second proposition, you are advised that under the provisions of Sec. 8416, Revised Codes of Montana, 1907, it is unlawful for anyone to keep any slot machine or similar machine or to permit any slot machine or similar machine to be kept in a business place. Hence, it is immaterial whether or not such machine be operated for something of trivial value or at all—the gist of the offense appearing to be the naked possession of such a device though it is probable that if the same were used in violation of the anti-gambling laws of this state the person so offending could properly be charged with two separate offenses, the one relating to the possession of the device and the other relating to an infraction of the gambling laws. However, every slot machine or similar device does not necessarily fall under the ban of the law, for there are many such as are used for legitimate trade purposes; it is only slot machines and similar devices as are essentially for gambling purposes that the law prohibits.

Yours very truly,

D. M. KELLY,
Attorney General.