

which the player obtains, or may obtain, money, checks or tokens redeemable in money, is a slot machine within the definition of Section 6 of Chapter 142, Laws of 1945, and may be used or operated lawfully only by religious, fraternal, charitable or nonprofit organizations, upon payment of the license fee in said act provided.

June 28, 1945.

Mr. Sam D. Goza, Chairman
State Board of Equalization
State Capitol
Helena, Montana

Dear Mr. Goza:

You have requested my opinion whether a "pin ball machine" is such a machine as to require a license under the provisions of Chapter 142, Laws of 1945.

Chapter 142 is an act relating to the licensing of slot machines. It permits the use and operation of slot machines by religious, fraternal, charitable or nonprofit organizations, providing a license for each machine is obtained from the State Board of Equalization.

The act defines the term "slot machine" for the purposes of the act as follows:

"Section 6. A slot machine is herein defined as a machine operated by inserting a coin, token or trade check therein by the player and from the play of which he obtains, or may obtain, money, checks or tokens redeemable in money."

Inasmuch as the legislature has defined the term "slot machine," only those machines or devices which come within the definition are subject to the provisions of the act.

Any machine or device, therefore, which is operated by inserting a coin, token or trade check therein, and from the play of which the player obtains, or may obtain, money, checks or tokens redeemable in money, is a slot machine within the provisions of Chapter 142, Laws of 1945, and may be used or operated only by religious, fraternal, charitable or nonprofit organizations, upon payment of the license fee in said act provided.

Unquestionably the act is designed to permit the use and operation of

Opinion No. 49.

**Gambling—Slot Machine—Pin Ball
Machines, Definition.**

Held: A pin ball machine which is operated by inserting a coin in a slot, and from the play of

those gambling devices known as "slot machines." Not every "slot machine" is a gambling device. (Ruling Cose Law, Volume 12, page 729.)

Our Supreme Court, however, in the case of *State ex rel. Dussault v. Kilburn*, 111 Mont. 400, 109 Pac. (2d) 1108, held a pin ball machine came within the provisions of Section 11159, Revised Codes of Montana, 1935, as amended by Chapter 153, Laws of 1937, making it a misdemeanor for any person to "run, conduct or keep any slot machine, or other similar machine or device, for money, checks, credits or any representative of value."

It is therefore my opinion that a pin ball machine which is operated by inserting a coin in a slot, and from the play of which the player obtains, or may obtain, money, checks or tokens redeemable in money, is a slot machine within the definition of Section 6 of Chapter 142, Laws of 1945, and may be used or operated lawfully only by religious, fraternal, charitable or non-profit organizations, upon payment of the license fee in said act provided.

Sincerely yours,

R. V. BOTTOMLY,
Attorney General