

**VOLUME NO. 36**

**Opinion No. 10**

**CRIMES AND CRIMINAL PROCEDURE — Gambling, bingo; CRIMES AND CRIMINAL PROCEDURE — Lottery, bingo; GAMBLING — Bingo, lottery. Article III, section 9, Constitution of Montana, 1972; Sections 62-715 through 62-726, 94-8-301 through 94-8-311, Revised Codes of Montana 1947.**

**HELD: The game of "10 Ball Bingo" is not authorized by the "Montana Bingo and Raffles Law", sections 62-715 through 62-726, Revised Codes of Montana 1947.**

August 6, 1975

Mr. Larry O. Foss  
Broadwater County Attorney  
Townsend, Montana 59644

Dear Mr. Foss:

I am in receipt of your recent letter regarding a gambling game known as "10 Ball Bingo."

It is my opinion that the game of "10 Ball Bingo" is **not** a game which was authorized by the Montana Bingo and Raffles Law, sections 62-716 through 62-726, Revised Codes of Montana 1947.

My opinion is based on the definition contained in section 62-716, R.C.M. 1947, and the description of "10 Ball Bingo" contained in the brochure attached to your letter. The statutory language upon which I rely reads as follows:

62-716. Definitions. As used in this act, unless the context otherwise requires, the following terms or phrases shall have the following meanings:

(1) "Game of chance" means the **specific kind of game of chance commonly known as:**

(a) "bingo," in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random; ...

The game of bingo was authorized as an exception to the general prohibition against lotteries. Bingo has always been treated as a lottery, having present the traditional elements of a lottery: prize, chance and consideration. Since lotteries are illegal, only those types of lottery which are specifically exempted from the application of section 94-8-301 through 94-8-311, R.C.M. 1947, are legal.

The description of "10 Ball Bingo" contained in the brochure attached to your letter clearly indicates that the game is a game of chance other than the "specific kind of game of chance commonly known as: 'bingo.'" It is my opinion that the legislature, in legalizing bingo, intended only to authorize the common form which, to use the terms of the brochure, is "generally played in large halls and players spend long periods of time in playing the games." Other language in the brochure further indicates that "10 Ball Bingo" is not the commonly known game of bingo. For example, it is stated in the third paragraph of the second page:

Consequently, what was needed for Montana was a **new game** that could be played under these restrictive laws. (Emphasis supplied)

At the bottom of the second page it is stated:

And so, 10 Ball Bingo was created.

The terms of Article III, Section 9, Constitution of Montana 1972, make it clear that only the legislature or the people, through initiative or referendum, have the authority to legalize new forms of gambling.

**THEREFORE, IT IS MY OPINION:**

The game of "10 Ball Bingo" is not authorized by the "Montana Bingo and Raffles Law", sections 62-715 through 62-726, Revised Codes of Montana 1947.

Very truly yours,  
ROBERT L. WOODAHL  
Attorney General