

**GAMBLING EQUIPMENT:**

The selling, storing, possession, and transportation in interstate commerce of any punchboard, slot machine, lottery ticket, roulette wheel, policy slip, book, list of numbers, or any article incident to a lottery or other gambling devices, is not prohibited by any law of the State of Missouri.

August 14, 1952



8-15-52 ✓

Honorable Harold B. Bamberg, Acting  
Prosecuting Attorney  
Pettis County  
Sedalia, Missouri

Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your opinion request:

"There is a concern in Pettis County that is engaged in the manufacture of a gambling device or article. The sales of this product are all made to customers outside the State of Missouri. In connection with the manufacture, the concern also sells, stores, possesses and transports these articles, but only in connection with the manufacturing for sale to their out-state customers. I would like to know if the new gambling law recently passed by the General Assembly, which was formerly Senate Bill No. 226, prohibits the activities of the concern in question.

"I would like an expression of opinion from your office on the construction of the phrase found in Section 1 of the Bill 'except in interstate commerce' so that I will know whether the exception refers only to the word transport or whether it also refers to the words sell, store and possess."

The law to which you refer is Senate Committee Substitute for Senate Bill No. 226, as truly agreed to and finally passed by the 66th General Assembly of Missouri. Section 1 reads as follows:

Honorable Harold B. Bamberg

"Every person who shall sell, store, possess or transport except in interstate commerce any punchboard, slot machine, lottery ticket, roulette wheel, policy slip, book, list of numbers or any other evidence of transactions incident to a lottery, or any other gambling device, equipment or article, shall be deemed guilty of a misdemeanor. All such equipment, devices and articles are hereby declared contraband and may be seized by any peace officer to be disposed of as herein provided."

It will be noted that the prohibition contained in the bill is against every person who shall sell, store, possess or transport except in interstate commerce any gambling devices, equipment or article. From the structure of the sentence, it would appear to be plain that this bill does not prohibit the possession or transportation of gambling devices in interstate commerce. Can it be said that the exception also refers back to the storing of gambling equipment? It seems to us to be clear that it does, inasmuch as any such gambling equipment would necessarily be considered to be stored so long as it was actually in process of transportation, and that the only means by which this type of storage could be avoided would be for such gambling equipment to be on a carrier being transported from another state across the State of Missouri. Clearly, this was not the object of the bill.

In the case of Local 167 v. United States, 291 U.S. 293, the Court said, l.c. 293:

"2. Control of the handling, sales and prices at the place of origin before the interstate journey begins, or in the State of destination where the interstate movement ends, may operate directly to restrain and monopolize interstate commerce."

In the case of United States v. Sheffield Farms, 43 Fed. Sup.1, the Court stated, l.c. 5:

"(7,8) The temporary stoppage of commerce on its way to the ultimate consumer does not remove the flow from the jurisdiction of the Federal Government. \* \* \* Therefore the stoppage of the milk, coming across state lines, for the purposes of pasteurization and packaging or bottling, did not change its interstate character. \* \* \*"

Honorable Harold B. Bamburg

It seems equally clear to us that the selling of gambling equipment in interstate commerce is likewise included in the exception. We believe, therefore, that a person in Missouri who sells, stores, possesses and transports gambling devices solely in interstate commerce, does not come within the prohibition of Senate Bill No. 226.

CONCLUSION

It is therefore the opinion of this department that the selling, storing, possession and transportation in interstate commerce of any punchboard, slot machine, lottery ticket, roulette wheel, policy slip, book, list of numbers, or any article incident to a lottery or other gambling device, is not prohibited by any law of the State of Missouri.

Respectfully submitted,

HUGH P. WILLIAMSON  
Assistant Attorney General

APPROVED:

  
\_\_\_\_\_  
J. E. TAYLOR  
Attorney General

HPWab