

MAINE STATE LEGISLATURE

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G.W.
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October 27, 1967

Honorable Harvey Johnson
Smithfield
Maine

Dear Harvey:

Several of the major oil companies are operating games of chance whereby persons stopping at their service stations may receive one-half of a coupon which, if matched up with the other half, will entitle the holder to a sum of money or a prize. No purchase is required in order to entitle a person to receive one of these half-coupons. The only stated requirement is that the person be a licensed motor vehicle driver. You have asked for an opinion as to the legality of such schemes.

The statute involved is 17 M.R.S.A. § 2301, which prohibits every lottery, scheme or device of chance, of whatever name or description.

In State v. Bussiere, 155 Me. 331, our law court held that in order to constitute a lottery, scheme or device of chance, under this statute, three elements must be present, namely: A prize, a chance, and a consideration having a pecuniary value paid directly or indirectly by some participant, and not merely any consideration sufficient to support a simple contract.

Holding that a similar scheme did not violate the statute, the court, in Bussiere, held that concededly the first two elements of the offense were present but that, since no payment, purchase or consideration of any kind was required by participants, the third element was absent.

We are bound by the decision in Bussiere and must conclude that there is no violation of law in the instant situation.

Honorable Harvey Johnson

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October 27, 1967

Neither the fact that participation is limited to licensed drivers, nor the claim that service station operators are in effect coerced into purchasing game materials and advertising for fear of losing business to participating competitors, alters our opinion. The last paragraph of 17 M.R.S.A. § 2301, provides that this section does not prohibit the awarding of a prize or thing of value where there is no monetary consideration required.

Sincerely yours,

Leon V. Walker, Jr.
Assistant Attorney General

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