

MAINE STATE LEGISLATURE

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March 12, 1975

George Orestis, Director

State Lottery Commission

Leon V. Walker, Jr., Assistant

Attorney General

Publication and Sale of Newspapers containing Lottery Advertisement

By letter of January 24, 1975, you requested a copy of the recently enacted Federal Lottery Law. This law (Public Law 53-583; 88 Stat. 1916) was recently received by the State Law Library and a copy is attached hereto.

In your letter you also asked the following two questions:

1. Under this law, can a newspaper published in Maine and carrying Maine State Lottery advertisements, be transported across State lines and legally sold in other States? We answer that the newspaper may be legally transported but that the question of the legality of sale of the newspaper depends upon the law of the State where sold, which question we do not answer herein.

Title 18, U.S. Code, Chapter 61, section 1301, forbids the carrying in interstate commerce of any advertisement of a lottery, and section 1302 forbids depositing in the mail or sending or delivering by mail, of any newspaper containing any advertisement of any lottery. Title 18, U.S. Code, Chapter 61, section 1307, as enacted by P.L. 93-583, provides in paragraph (a) that the provisions of sections 1301 through 1304 shall not apply to an advertisement, list of prizes, or information concerning a lottery conducted by a State acting under the authority of State law.

"(1) contained in a newspaper published in that state . . ." Section 4 of P.L. 93-583 amends section 3005 of Title 39 of the U.S. Code by adding at the end thereof that nothing in section 3005 prohibiting the conducting of a lottery through the mails shall prohibit the mailing of "a newspaper of general circulation published in a State containing advertisements . . . or information concerning a lottery conducted by that State acting under the authority of State law . . ."

The above provisions of P.L. 93-583 make it now legal to mail or otherwise transport in interstate commerce a newspaper published in Maine which contains advertisements or other information concerning the Maine State Lottery. When such newspapers have arrived at destination, however, they are no longer in the mails, and the legality of their sale may depend upon the law of the State of their location.

2. Can another State Lottery - New Hampshire Sweepstakes, for example, purchase an advertisement in a Maine published newspaper, thereby advertising in Maine? We answer no.

The Federal Law is not concerned with a purchase by the New Hampshire Sweepstakes of an advertisement in a paper published in Maine, but it does prohibit the carrying in interstate commerce or in the mail of any advertisement of a lottery and of newspapers containing the same. P.L. 93-583 legalizes only an advertisement or information concerning a lottery conducted by a State acting under the authority of State law, "contained in a newspaper published in that State;" and the mailing of a newspaper of general circulation published in a State containing an advertisement or information concerning a lottery conducted by that State acting under the authority of State law.