

MAINE STATE LEGISLATURE

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July 28, 1975

George Orestis, Executive Director

Maine State Lottery Commission

Robert J. Stolt, Assistant

Attorney General

Trademark and copyright privilege of Lottery Commission

This will respond to your memo of June 17, 1975, regarding the matter referred to above.

I have been unable to find any authority which would prohibit the Lottery Commission from seeking trademark protection of its games. Title 10 of the Maine Statutes (10 M.R.S.A. § 1501, et seq.) provides the Commission with trademark protection by filing the appropriate certificate with the Secretary of State for the use of

"any peculiar name, letters, marks, device or figures, cut stamped, cast or engraved upon, or in any way attached to or connected with any article manufactured or sold by [the Commission] to designate it as an article of a peculiar kind, character or quality, or as manufactured by [the Commission]. . . ."

Because the Commission is the only one authorized by law to operate or run a lottery, filing trademark certificates may be a superfluous act. However, I have attached hereto the appropriate certificates to protect all currently developed Commission games including an assignment to cover the "Great Outdoors Instant Lottery" which trademark has been obtained by Scientific Games Development Corporation. Scientific Games has acknowledged in its letter to me of June 27, 1975, (copy attached) that the above trademark rightfully belongs to the Commission under its contract (No. 905185) with the Commission.

Further, the Commission may not apply for Federal trademark protection as Federal regulations 37 C.F.R. § 2.32, require such protected goods to be involved in interstate commerce. Federal laws 39 U.S.C. § 3005, see also 18 U.S.C. §§ 1301-1307, currently prohibit interstate transportation and sale of lottery tickets. However, the Commission may seek United States copyright protection for appropriate materials. If the Commission decides to seek United States copyright protection, such protection must be secured prior to publication. Federal copyright protection may not be claimed after material has been published unless adequate notice of copyright appears on the material at the time of publication, 37 C.F.R. § 202.2(a).

ROBERT J. STOLT
Assistant Attorney General

RJS/ec