

## CHAPTER 614

## CRIMES AGAINST PUBLIC POLICY

## LOTTERIES

**614.01 LOTTERY, NUISANCE, DRAWING, HOW PUNISHED.**

As to whether a transaction violates the lottery laws is for the jury to determine upon consideration of all the facts. A person may legally give away his property by lot or chance. The vice and illegality is the payment of a consideration for the chance of an advantageous return. OAG Oct. 24, 1946 (510-B).

A gift enterprise by which a merchant or tradesman sells his wares for the market value, but, by way of inducement, gives to each purchaser a ticket which entitles him to a chance to win certain prizes to be determined after the manner of a lottery, is common gaming. OAG June 2, 1947 (735-F).

The three necessary elements of a lottery are the offering of a prize, the awarding of the prize by chance, and the giving of a consideration for an opportunity to win the prize. A game does not cease to be a lottery because some, or even many, are admitted to play free, so long as others continue to pay for their chances. Illustrated by many examples. OAG July 10, 1947 (733-N).

Use of so-called "Bank Night Identification Card" does not take scheme out of rule of State v Schubert, 203 M 366, 281 NW 309. Plan as proposed is a lottery. OAG Aug. 18, 1947 (510-A-1).

Under present statutes, including L. 1947, c. 586, a pin ball machine which returns only a free play is not deemed a gambling device. OAG Aug. 29, 1947 (733-D).

Liability of agents to account to principal for proceeds of an illegal contract involving a lottery. 6 MLR 599.

The three elements of a lottery are (1) chance, (2) a prize, (3) consideration. 11 MLR 380.

"Bank Nights," as a lottery; nature of consideration. 21 MLR 216; 23 MLR 102.

**614.02 SELLING TICKETS, ADVERTISING.**

Whether issuing tickets entitling the holder to win a car or other prize constitutes a violation of the lottery laws is a question of fact. Based on State v Stern, 201 M 139, 275 NW 626, and State v Schubert, 203 M 366, 281 NW 369. OAG Oct. 24, 1946 (510-B-5).

## GAMING

**614.053 BINGO DEFINED.**

Mechanical devices that constitute bingo as defined in section 614.053 do not constitute lottery or gambling. OAG Jan. 13, 1947 (733-G).

The Chippewa county fair association may operate a "bingo" game at their fair provided statutory notices are given at or within the time prescribed by the statute. OAG Aug. 15, 1947 (733-G).

**614.054 CERTAIN ASSOCIATIONS PERMITTED TO OPERATE.**

"Association" under section 614.054 means any corporation or organization existing under the laws of the state and not organized for pecuniary profit. OAG July 23, 1945 (733-G).

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Nothing in sections 614.053 or 614.054 prohibits a city council from regulating by ordinance the game of bingo as defined in L. 1945, c. 419, s. 1. OAG Nov. 24, 1945 (733-G).

Businessmen's clubs, civic and commerce associations, and the like, not organized for profit may conduct the game of "bingo" as part of an entertainment program. OAG July 9, 1947 (733-G).

Any organization properly qualified under the law, if it complies with the conditions as to notice, and if no objection is made by the governmental subdivision, may conduct a bingo game at the time and place designated in the notice. OAG July 14, 1947 (733-G).

While an American Legion post upon proper application and qualification may be authorized to conduct a "Bingo" game, it must operate the game itself. It cannot permit a carnival company to operate the game in the name of the legion and receive a percentage of the profits. OAG Aug. 19, 1947 (733-G).

## 614.06 GAMBLING.

There is no conflict between L. 1947, c. 586, and sections 614.06, 614.07. L. 1947, c. 586, does not impliedly repeal sections 614.06, 614.07. OAG March 27, 1947 (733).

Under present statutes, including L. 1947, c. 586, a pin ball machine which returns only a free play is not deemed a gambling device. OAG Aug. 29, 1947 (733-D).

Right to recover money loaned which was used in a gaming transaction. 13 MLR 266.

## 614.07 GAMBLING DEVICES ON PREMISES.

While the vending machine gave gum for each coin, it occasionally spelled "beer," the beer being the prize. Defendant was guilty under an ordinance providing that "no person shall keep or set up any gambling device whatever, designed to be used in gambling." State v LaDue, 198 M 255, 269 NW 527.

One playing a coin-operated slot machine is entitled to recover his losses from the keeper thereof as money lost at playing a "game." Foley v Whelan, 219 M 211, 17 NW(2d) 367.

A vendor of punch boards may not be included under provisions of a law prohibiting gambling devices. OAG Oct. 24, 1945 (733-B).

Whether a mechanical device constitutes a gambling device can only be determined upon the facts. Pinball machines operated by depositing coins and affording a successful player tokens which may be used only for replay have been construed as gambling devices. OAG Jan. 17, 1947 (733-d).

Whether or not a particular machine or device constitutes a gambling device may be determined only after all of the facts have been presented; and such determination is ordinarily for the courts if and when in a proper case the facts have been fully presented. OAG Jan. 28, 1947 (733-D).

Whether Mystery Boxes, Play Ball, Star Parade, Big Circus, and similar devices constitute gambling devices is a question of fact and use as determined by the court, but they are not within the provisions of L. 1947, c. 586 (ss. 325.53 to 325.62). OAG May 12, 1947 (733-F).

## 614.09 RECOVERY OF MONEY LOST.

Funds derived by municipality from gambling sources do not constitute legal funds of the municipality. The loser may recover such funds. OAG Jan. 14, 1947 (733-D).

Robbery; loser at cards forcibly retaking money from possession of winner. 8 MLR 443.

Recovery of gambling losses by loser from winner. 27 MLR 95.

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### 614.10 COMMITMENTS FOR GAMBLING DEBT VOID.

One playing a coin-operated slot machine is entitled to recover his losses from the keeper thereof as money lost in playing a "game." All statutes relating to gambling are to be taken together as one law on the subject, and so construed. *Foley v Whelan*, 219 M 209, 17 NW(2d) 367.

### 614.16 CONTRACTS FOR FUTURE DELIVERY OF FARM PRODUCE.

No recovery can be had on illegal transaction in futures. Hedging is a legitimate transaction, but an "option" has no application to a "hedge" and is a speculation contract. *Fraser v Farmer's Co-operative*, 167 M 369, 209 NW 33, 913.

Hedging and speculative contracts. 10 MLR 349.

Dealing in commodity futures. 18 MLR 544, 555, 589.

## PAWNBROKERS

### 614.17 LICENSE; REFUSAL TO EXHIBIT STOLEN GOODS; SELLING BEFORE TIME OF REDEMPTION.

Junk dealers required to consent to search of premises. 15 MLR 481.

## SEPULTURE

### 614.20 DISSECTION; WHEN PERMITTED.

Property rights in a dead body. 18 MLR 204, 223.

### 614.22 OPENING GRAVE; STEALING BODY; RECEIVING SAME.

Property rights in a dead body. 18 MLR 204, 223.

## RELIGION

### 614.28 SABBATH BREAKING; DAY.

Sunday sales of food; right of person buying a drink on Sunday to recover from manufacturer for breach of implied warranty. 10 MLR 446.

### 614.29 THINGS PROHIBITED; EXCEPTIONS.

The payment of an entrance fee by patrons, and awarding of a purse to the winning horse in a race at a county fair is not gambling. OAG July 8, 1947 (733-a).

Right of person buying a drink on Sunday to recover from the manufacturer for breach of implied warranty. 10 MLR 446.

Affirmative defense. 19 MLR 683.

Proximate cause; causation. 21 MLR 22.

## CRUELTY TO ANIMALS

### 614.43 CRUELTY IN TRANSPORTATION.

The setting out of the carload of stock at Sebeka with poor shelter and in blizzard conditions was actionable under the provisions of section 614.43, and the evidence sustains the verdict for the plaintiff. *Robinson v Great Northern*, 123 M 495, 144 NW 220.