

Opinion No. 63-32-L
R-140
February 19, 1963

REQUESTED BY: CHARLES H. GARLAND, Executive Secretary
Arizona State Fair Commission

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Is the award of all-expense trips by the State Fair Commission to winners of a ticket drawing held at the State Fair in violation of the Arizona anti-lottery statutes?

ANSWER: No.

The State Fair Commission has advised that it is contemplating awarding all-expense trips during the 1963 state fair as part of the public relations promotion of the fair.

The plan prepared by The Fair Commission under which it is anticipated that the trips will be awarded is as follows:

1. Six sets of all-expense trips to Honolulu or Mexico City will be given throughout the fair to holder of number drawn at the fairgrounds at previously designated and advertised periods.
2. Tickets can be procured at all gates of the fairgrounds free of charge or at various stores and establishments throughout the city. The latter stores and establishments may or may not be co-sponsors of this project.
3. No person under 18 years of age may register for the drawing.
4. No employee or relative of an employee of the Arizona State Fair, sponsoring airline or travel service, or any sponsoring firm is eligible to win.
5. Drawing to be held on six designated and advertised nights at 10 p.m. following the stage show in front of the grand-stand at the fairgrounds. Loud speakers will be placed at the main entrance on McDowell where the public not attending the State Fair can gather (cont.)

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

and hear the results of said drawing, and if any winners are included in this group, they may present their tickets and claim their tickets and claim their award outside the fairgrounds at said main entrance.

6. To expedite drawing procedure, three tickets will be drawn and announced in the order in which they are selected.
7. Winner must claim trip ticket within 15 minutes after numbers are posted on the grandstand stage, the plaza stage, and outside the main gate and announced over the public address system.
8. If holders of second and third tickets make their presence known at once, they must wait the full 15 minutes to allow holder of first ticket a chance to claim prize, and if holder of first ticket does not claim the prize in 15 minutes the trip ticket will be awarded to the second ticket holder.. In the event the second ticket holder does not report, the third ticket will be awarded the prize.
9. If no winner claims the prize during the time limit, a new winner will be selected the following night.
10. Each winning ticket will be awarded an all-expense trip for two. However, only one such award per family will be allowed.
11. Trip ticket is transferrable to a second person but is not redeemable for cash.
12. All travel arrangements, reservations to and from airport, etc. must be made between the winner and the travel agency co-sponsoring these awards.
13. No purchase of any name or nature will be required to enter this contest.

Statutory authority exists for the award of prizes at the State Fair. A.R.S. § 3-1003 as amended, 1960, Chapter 8, Section 1, provides:

"The Arizona state fair commission shall:

* * *

"3. When deemed advisable, charge entrance fees and gate money, temporarily lease stalls, stands, booths and sites, and give prizes or premiums for exhibits and contests." (Emphasis added)

A.R.S. § 13-436 provides:

"A person who keeps, maintains, employs or carries on a lottery, or lottery scheme or device, or raffle, is guilty of a misdemeanor."

A lottery is defined as a scheme for the distribution of prizes or other things of value by lot or chance among persons who have paid or agreed to pay a valuable consideration for the chance to obtain a prize. The three necessary elements of a lottery are: a.) the offering of the prize, b.) giving of a consideration for an opportunity to win the prize, and c.) the awarding of the prize by chance. Engle v. State, 53 Ariz. 458, 469, 90 P2d 988 (1939). Attorney General's Opinions Nos. 61-132-L, 54-91 and 53-43-L are consistent with these rules and generally determine that payment of a consideration is indispensable to constitute a lottery.

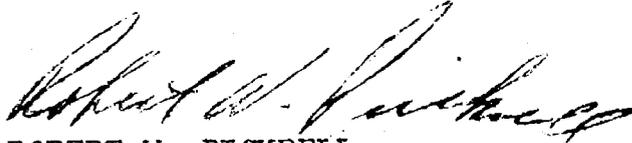
Under the plan of the Commission, the first and third elements of a lottery, that is the offering of a prize and its award by chance, are obviously present. However, the plan as submitted does not require a giving of a consideration for an opportunity to win the prize.

Paragraph 2 of the proposed plan indicates that tickets can be procured either at the gates of the fairgrounds or at various stores and establishments throughout the city without charge. It is further indicated in Paragraph 5 of the plan that loudspeakers will be placed at main entrance of the fair where the public not attending the fair can gather and hear the results of the drawing. If any winners are in the group not attending the fair, they may present their tickets and claim their award outside the fairgrounds. Moreover, according to paragraph 7, the winning

Opinion No. 63-32-L
R-140
February 19, 1963
Page 4

numbers will be posted, among other places, outside the main gate, as well as being announced over the public address system.

It is thus possible for a winner to be selected on the basis of having secured a free ticket and never actually entering within the fairgrounds. Since such winner could be selected without the payment of any consideration on his part, the plan is not a lottery and not in violation of A.R.S. § 13-436.


ROBERT W. PICKRELL
The Attorney General

RWP:MEM:nt:ag