



**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

PRICE DANIEL
ATTORNEY GENERAL

April 28, 1947

Hon. Ernest Guinn
County Attorney
El Paso County
El Paso, Texas

Opinion No. V-167

Re: Are the Texas lottery laws violated under a plan whereby a merchant awards a washing machine by chance to a registrant without requiring the registrant to be a customer or purchase merchandise?

Dear Mr. Guinn:

The question of whether or not the lottery laws of Texas are violated by the plan presented in your opinion request of March 26, 1947, has been carefully considered. It is stated in the enclosure to your letter that the company has moved its place of business and proposes to request anyone to register at the new place of business, and on a certain night, some 30 days or more thereafter, a drawing will be had and the lucky person will draw a washing machine. It is further stated that the registrants are not required to be customers nor are they required to make a purchase.

This department has in the past rendered numerous opinions concerning the legality of various advertising and promotional plans. However, a review of these former opinions shows that none of them were written on a fact situation similar to the one outlined in your request.

Article III, Section 47 of the Constitution of Texas provides:

"The Legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this State, as well as the sale of tickets in lotteries, gift enterprises or other evasions involving the lottery principle, established or existing in other States."

Pursuant to this constitutional command, the Legislature passed Article 654 of the Penal Code, which reads as follows: