



TEXAS ALCOHOLIC BEVERAGE COMMISSION

Post Office Box 13127, Capitol Station, Austin, Texas 78711-3127 (512) 458-2500 Jeannene Fox, Acting Administrator

RD-219

ID# 13527
MJ

September 9, 1991

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Opinion Committee

The Honorable Dan Morales
Attorney General
The State of Texas
Supreme Court Building
Austin, Texas 78711

Dear General Morales:

The 72nd Legislature, First Called Session, in H. B. 11, amended the Bingo Enabling Act, TEX. REV. CIV. STAT. ANN. art. 179d (Vernon Supp. 1991), effective September 1, 1991, to add Section 19b, which reads as follows:

Sec. 19b FEE ON PRIZES. (A) An authorized organization licensed to conduct bingo shall collect a fee from each person who wins a prize in a bingo game.

(B) The fee imposed by this section is three percent of the amount or value of the prize.

(C) A licensed authorized organization shall report and remit the fee imposed by this section at the same time and in the same manner as the gross receipts tax under Section 20 of this Act.

"Bingo" or "game" are defined in Sections 2(2) and 39(a) of the Bingo Enabling Act. In addition to bingo games played on hard cards and disposable paper cards, bingo players also play instant bingo on cards such as the one enclosed. Most of the winners on instant bingo cards are \$.50 or \$1.00 winners.

Rather than collect their prize, most of the \$.50 or \$1.00 winners turn in the winning card for additional instant bingo cards, hoping for a bigger winner.

We have received a large number of complaints from organizations licensed to conduct bingo, stating that the cost of hiring additional workers to collect the fee from instant bingo winners would exceed what it would cost the organizations to pay the prize fee themselves and would bring the state a very small amount of revenue.

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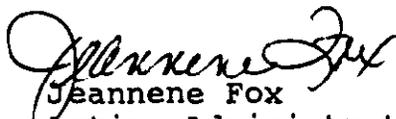
In view of these facts, we ask the following questions:

1. Is instant bingo "a bingo game" as that term is used in Section 19b(a) as quoted previously?
2. If it is bingo, does the commission have any discretionary authority to waive the fee or exempt from the fee instant bingo prizes of \$1.00 or less?
3. May an organization that is licensed to conduct bingo pay the prize fee itself, either from its bingo account or from its general fund, rather than collect the fee from the winning players?

In view of the immediate need to apply the proper construction to these statutes, your help in expediting this matter is urgently requested.

Should you need further information on this request, please contact Bob Falls, Staff Attorney, Bingo Division, at 465-4924.

Sincerely,



Jeannene Fox
Acting Administrator
Texas Alcoholic Beverage Commission

JF:rmr