

James A. Coy Jr.
Chairman

David J. Schenck
Commissioner

Fernando C. Reyes
Commissioner



TEXAS LOTTERY COMMISSION

Anthony J. Sadberry, *Executive Director*

Philip D. Sanderson, *Charitable Bingo Operations Director*

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April 24, 2008

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FILE # ML-45659-08
I.D. # 45659

The Honorable Greg Abbott
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OPINION COMMITTEE

RQ-0705-GA

Dear General Abbott:

As chairman of the Texas Lottery Commission (the "Commission"), I am seeking your opinion as to whether Transportation Code Section 521.126 permits the use of electronically readable information encoded on the magnetic stripe on the back of a Texas driver's license to verify the age of persons using self-service terminals and vending machines to purchase lottery tickets.

Although the majority of Texas Lottery sales are generated through traditional clerk-assisted transactions at convenience and grocery stores, in some licensed retail locations there are Texas Lottery instant ticket vending machines (ITVMs), which accept cash and dispense Texas Lottery instant scratch tickets. Also, in some locations there are self-service terminals (SSTs), which dispense on-line¹ game tickets and allow players to check their own tickets for winning status.

The State Lottery Act prohibits sales to persons under the age of 18. Gov't Code §466.3051. In an effort to prevent sales to minors, these self-service terminals and vending machines are placed within the view of retailer employees who have access to a remote shut off device should the purchaser appear to be under the age of 18. Another approach would be to access the electronically readable information encoded on the magnetic stripe on the back of the Texas driver's license.² The information accessed would not be stored in the machines. Rather, the machines would simply check the age to determine whether or not to allow the transaction to go forward. The information accessed would not be maintained, compiled or used for any purpose other than verifying the purchaser is over the age of 18. Further, the licensed retailer would not have access to information encoded on the magnetic stripe on the back of the Texas driver's license.

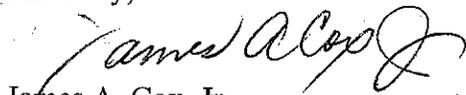
¹ In essence, an on-line game is a game that relies on a computer system to administer players' selection of numbers in connection with a drawing.

² Several of the new self-service machines are already equipped with a device with the capability to access this information, but the device is currently not activated and not in use on these machines.

The access and use of the electronically readable information is governed by Texas Transportation Code Section 521.126. This statute generally prohibits the access and use of such electronically readable information, but there are exceptions to that general prohibition. Attorney General Opinion GA-0464 (2006) suggests that use for age verification in connection with the purchase of lottery tickets may be within an exception from the general prohibition.

Thank you for your attention to this matter. If you need additional information, please contact Kimberly L. Kiplin, General Counsel of the Texas Lottery Commission, at (512) 344-5105.

Sincerely,



James A. Cox, Jr.
Chairman, Texas Lottery Commission

cc: Commissioner David J. Schenck
Commissioner Fernando C. Reyes
Anthony J. Sadberry, Executive Director