



Ismael "Kino" Flores  
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Texas House of Representatives  
Committee on Licensing & Administrative Procedures  
29 September 2003

**RQ-0113-GA**

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OPINION COMMITTEE

Opinion Committee  
Office of the Attorney General  
Post Office Box 125438  
Austin, Texas 78711-2548

FILE # ML-43272-03

I.D. # 43272

sent via fax #472-6538

To Whom It May Concern:

In opinion number JC-0450 issued January 14, 2002, you responded to questions concerning the provisions of section 2001.556 of the Occupations Code, as they applied to revenue-share leasing agreements between a manufacturer of bingo card minding equipment and a distributor of bingo equipment. There is a current practice that certain manufacturers are employing in Texas that may be prohibited by the code section that is not addressed in the opinion. The current practice can be described as follows:

Under circumstances in which a manufacturer of bingo equipment leases equipment to a distributor under a revenue-share leasing agreement, does section 2001.556 prohibit a manufacturer from requiring that a distributor charge certain minimum prices to bingo conductors?

In the opinion, you stated that an agreement that allows a manufacturer to "dictate" the percentage of revenue the distributor will take from the conductor controls the price the conductor pays the distributor. It would appear from the previous opinion that the code section would similarly prohibit the manufacturer from requiring the distributor to set certain minimum prices with the bingo conductor. I would appreciate a clarification of the matter.

If the manufacturer's requirement that the distributor lease at certain minimum prices is prohibited by the code section, is the violation established solely by the manufacturer requiring certain minimum prices or is there a requirement of determining the manufacturer's intent to control prices (i.e., can the manufacturer avoid the prohibition by asserting that the manufacturer was only intending to receive a minimum return from the distributor, not control the price the distributor charges the bingo conductor?).

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MEMBERS:

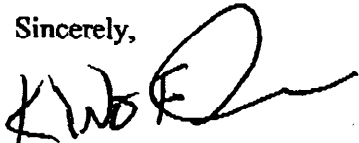
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MILDA MORA, CHIEF CLERK M. J. NICCHIO, RESEARCH DIRECTOR

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This is a matter of importance in the electronic bingo industry in Texas. I would appreciate your prompt review. If you have any questions concerning my request, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kino Flores', with a large, stylized flourish extending to the right.

Kino Flores  
Chair