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OPINION COMMITTEE



RR-0898-GA

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I.D. # 46505

BYRON COOK
VICE-CHAIR

July 7, 2010 COMMITTEE ON LOCAL & CONSENT CALENDARS

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

sent via fax to 512.472.6538

Dear General Abbott:

This is a request for an Attorney General's Opinion regarding whether certain business practices described below, which may be used by charities that conduct bingo to maximize their net proceeds, comply with Chapter 2001, Occupations Code, and other applicable law.

The Business Practices

The practice used by many charitable bingo organizations is to redeem prize winnings from amusement machines with bingo merchandise. A person who plays the amusement machine and wins is awarded a representation of value in the form of a ticket or token. Each ticket or token represents no more than \$5 or ten times the amount the player pays for one play of the amusement machine, whichever is less. No cash is paid to a player of the machine who wins.

Instead, the player takes the tickets or tokens to the bingo cashier, who provides the player with bingo merchandise. The bingo merchandise is approved by the Texas Lottery Commission and includes bingo paper, bingo pull-tabs or bingo cardminders that are used by the customer to play bingo. The bingo merchandise used for redemption is withdrawn and sold from the charities' regulated inventories and the use of the merchandise is documented in the normal course of business as required by Commission rules.

The tickets serve as a way to keep track the players' receipt of the bingo merchandise and can only be redeemed for the merchandise at the bingo location (i.e., on site). Based on the number of tickets turned into the cashier, the operator of the amusement machine pays the charity for the bingo merchandise that has been dispensed to players who presented the tickets. The form of this payment is by cash, debit card or check, all of which are authorized forms of payment for bingo merchandise. The payments for this merchandise are all registered and reported as required by Commission rules as sales of the bingo merchandise. The proceeds from the payments are deposited into the charities' bank accounts in the manner required by the Commission and state law for all sales of bingo merchandise.

P.O. Box 2910 ☆ AUSTIN, TEXAS 78768-2910 ☆ 512-463-0800 ☆ F2.166

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Interest of the Charities


This practice has come to contribute an important part of many charitable bingo organizations' net proceeds from bingo. These organizations have been careful to establish processes intended to comply with the "\$5 or ten-times rule" of Texas Penal Code Section 47.01(4)(B). They are also redeeming only for non-cash merchandise prizes in the form of state-approved bingo inventory. This merchandise is manufactured by licensed bingo manufacturers, boxed and shipped to licensed bingo distributors and then sold and shipped by the distributors to the bingo charities. Since the amusement machines have a relatively high percentage payout, the winnings redeemed by these charities are a considerable portion of the amounts paid to play the amusement machines and contribute substantially to the charities' sales and bottom lines.

In addition, if there is a game room near the charitable bingo location that is using gambling devices paying cash, without redemption for bingo merchandise these charities have no way to compete against those who are breaking the law.

For these reasons, compliance with the Penal Code in the manner described above is vital to these charities. Accordingly, I request your affirmative opinion regarding whether the practices as described are in compliance with state law. While I understand that the Texas Lottery Commission has asked for your opinion regarding some related matters, I request that you fully consider the complete description of the charities' business practices above in reaching your conclusions regarding my questions.

Thank you for your prompt attention to this matter. If you should have any further questions please contact my committee clerk, Milda Mora, at 463-0720.

Sincerely,


Senfronia Thompson
Chair