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OPINION COMMITTEE

September 19, 2011

FILE # RL-46823-11
I.D. # 46823

The Honorable Greg Abbot
Attorney General of Texas
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Via CMRRR

RQ-0995-BA

Re: Penal Code § 47.01; Gambling

Dear Attorney General Abbot:

Chapter 47 of the Texas Penal Code contains the general statutes regarding gambling in Texas. Section 47.01 which provides a definition of gambling devices also contains an exception for those devices that rewards the player with "...noncash merchandise prizes, toys, or novelties..."

BACKGROUND FACTS

A local bingo hall wants to install eight-liner machines that dispense tickets that can be redeemed only at the bingo hall, only on the night in question, for items such as daubers, bingo play cards, and items from the concession stand. The tickets would have no value outside of the bingo hall.

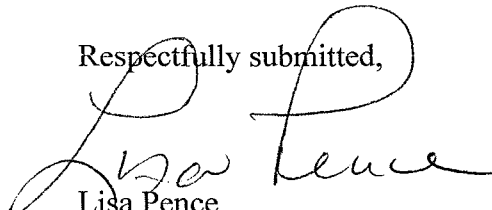
POSITION OF REQUESTOR

It is the State's position that the bingo hall in question would not be in compliance with the 47.01(4)(B) exception. I believe that dispensing tickets that are redeemable for items used in the concession stand or items used to play bingo would be no different than a stored-value card that can be used to purchase merchandise.

In Hardy v. State, 102 S. W. 3d 123 (Tex. 2003), the Texas Supreme Court held that eight-liner machines that dispense tickets redeemable for cash or gift certificates do not meet the 47.01(4)(B) exception. Various Attorney General opinions have made it clear that eight-liner machines cannot dispense tickets that are redeemable for gift cards, or stored-value card do not meet the 47.01(4)(B) exception. *Op. Tex. Att'y Gen.* DM-466 (1997); *Op. Tex. Att'y Gen.* GA-0527 (2007) However, I have not found any opinion that specifically defines the terms noncash merchandise prizes, toys or novelty items.

I respectfully request that you provide a more detailed explanation of items that would fall within the "...noncash merchandise prize, toy or novelty exception."

Respectfully submitted,



Lisa Pence
Erath County Attorney