

BAO 2006-0316-0009	Date Issued: 06/06/2006	View Request <a href="#">RQ 2006-0316-0009</a>
Summary:	The "quick pick" feature of the system as described in the request for a Bingo Advisory Opinion is prohibited by Texas Occupations Code §2001.409. Charitable Bingo Administrative Rule § 402.301(h)(1) does not permit the playing of pick games with electronic bingo card minding systems.	

CERTIFIED MAIL NO. 7001 2510 0001 4202 7952

BAO # 2006-0316-0009

June 6, 2006

Jeff Jalovec  
Applied Concepts, Inc.  
19668 Progress Drive  
Strongsville, Ohio 44149

Re: Bingo Equipment

Dear Mr. Jalovec:

This advisory opinion responds to your request which was received by the Texas Lottery Commission (Commission) on March 16, 2006. Below is your request.

Would you please advise us of the Commission's position concerning the playing of pick games with electronic bingo card minding systems. These are electronic bingo card minding devices and/or point-of-sale systems. I have reviewed the Administrative Code and am unclear as to the regulations(s) concerning this aspect of charitable gaming.

In a letter dated March 21, 2006 the Commission requested additional information. The Commission received additional information from you on April 11, 2006. Below are pertinent portions of your response followed by the Commission's answer.

Our devices function as electronic bingo card minding devices (EBCMD's) or electronic daubers . . . .

The concept for the pick system works like any other pick system. The POS (point of sale) would be equipped with a module that would scan the pick cards. A customer would take a card, fill out the pick numbers he or she desires, and turn it in, in order to purchase a pick ticket. Instead of filling out, the customer would also be able to choose a "quick pick" where a RNG (random number generator) will pick the numbers for them. Once the customer has the ticket, they can use it to play a pick game later in the session.

**ANSWER:**

The “quick pick” feature of the system you described would not comply with the Bingo Enabling Act. Specifically, Texas Occupations Code § 2001.409 (a) (1) provides:

(a) A person may not use a card-minding device:  
to generate or determine the random letters, numbers, or other symbols used in playing the bingo card played with the device’s assistance.

In addition, Charitable Bingo Administrative Rule § 402.301(h)(1), which defines a player pick ems game, does not provide for player pick ems to be played utilizing a card minding-device. § 402.301(h)(1) provides the following in regard to a player pick ems game.

Player pick ems. A game where a player selects his/her own numbers on a multi-part duplicated disposable bingo card/paper. One copy is retained by the player and used as a bingo card/paper while the other copy is provided to the organization for verification purposes.

The Bingo Enabling Act, Texas Occupations Code § 2001.055, provides that “[t]he Commission may by rule establish the number and type of bingo games that may be played during a bingo occasion.” Charitable Bingo Administrative Rule § 402.301 pertaining to Bingo Card/Paper provides in subsection (l) that the “. . . rule is applicable only to bingo/card paper . . . and shall not be applicable to the manufacture or use of card-minding devices addressed in § 402.302, with the exception of style of play as defined by this rule . . . .” Thus, § 402.301(h) pertaining to style of play applies to card-minding devices.

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## **SUMMARY**

The “quick pick” feature of the system as described in the request for a Bingo Advisory Opinion is prohibited by Texas Occupations Code §2001.409. Charitable Bingo Administrative Rule § 402.301(h)(1) does not permit the playing of pick games with electronic bingo card minding systems.

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretive of the Internal Revenue Code. The information provided is completely limited to the context of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

This advisory opinion is based on the laws, rules and regulations in effect at the time of its issuance. All of the information provided herein is subject to change in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue and to the facts presented in the request. Therefore, this opinion must not be relied upon

as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Yours truly,

William L. Atkins, Director  
Charitable Bingo Operations Division

cc: C. Tom Clowe, Jr., Chairman  
James A. Cox, Jr., Commissioner  
Kimberly L. Kiplin, General Counsel