





# INTEROFFICE MEMO

*Ryan Mindell, Executive Director*

*LaDonna Castañuela, Charitable Bingo Operations Director*

**To:** Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Clark E. Smith, Commissioner  
Jamey Steen, Commissioner

**From:** LaDonna Castañuela, Charitable Bingo Operations Division Director *LDC*

**Date:** Thursday, June 6, 2024

**Re:** Item XI. Report by the Charitable Bingo Operations Director and possible discussion and/or action on the Charitable Bingo Operations Division's activities, including licensing, accounting, and audit activities; reports; special projects; Bingo Advisory Committee member nominations; and an April 15, 2024, Bingo Advisory Opinion request from licensed bingo distributor All Saints Texas, LLC.

The following documents are associated with this tab:

1. CBOD April 2024, Output Metrics.
2. CBOD May 1, 2024, thru May 21, 2024, Output Metrics; and
3. A draft Bingo Advisory Opinion for Bingo Advisory Request 2024-0415-0002 received on April 15, 2024, from All Saints Texas, LLC.

Additional information may be provided at the commission meeting.



# Texas Lottery Commission

Commissioners:

Robert G. Rivera, Chairman

Cindy Fields • Mark A. Franz • Clark E. Smith • Jamey Steen



LaDonna Castañuela  
Director

**CERTIFIED MAIL NO. \_\_\_\_\_**  
**RETURN RECEIPT REQUESTED**

June \_\_, 2024

Ms. Kimberly L. Kiplin  
510 Hearn Street, Suite 200  
Austin, TX 78703

Re: Bingo Advisory Request No. 2024-0415-0002

Dear Ms. Kiplin:

This opinion responds to your request for a bingo advisory opinion received via email on April 15, 2024. Specifically, you asked the following questions:

May a licensed bingo distributor receive or “take back” bingo equipment or bingo supplies from a licensed authorized organization (not a licensed manufacturer or another licensed distributor)? If so, under what circumstances may a licensed bingo distributor “take back” bingo equipment or supplies?

Below is our response:

No. According to Tex. Occ. Code §2001.407(c), “A licensed distributor may not receive by purchase or otherwise bingo equipment or supplies from a person other than a licensed manufacturer or another licensed distributor.” The issue is whether the word “receive” includes a “take back” or return of bingo equipment or supplies. Under Texas rules of construction, when a word in a statute is not defined, our task is to determine its common, ordinary meaning, and we may look to dictionary definitions as guidance.<sup>1</sup> Merriam-Webster defines “receive” as “to come into possession of; to acquire.” Black’s Law Dictionary defines it as “to acquire or get something.” When an organization returns bingo equipment to a distributor, the distributor “acquires it” or “comes into possession” of it. Thus, either common definition is sufficient to determine that the word “receive” as used in this provision of the statute includes a “take back” or return. As such, a distributor may not receive bingo equipment or supplies by a “take back” or return from a person other than a licensed manufacturer or another licensed distributor.

<sup>1</sup> *Jaster v. Comet II Constr., Inc.*, 438 S.W.3d 556, 563 (Tex. 2014).

This interpretation is further supported by the statute's use of the phrase "... by purchase *or otherwise...*" (*emphasis added*). If the statute merely said "...by purchase...", it would be reasonable to interpret the law to allow for a "take back" or return from a customer, but the addition of the phrase "...or otherwise..." indicates that there are no circumstances whatsoever under which a distributor may receive bingo equipment from any person other than a licensed manufacturer or distributor.

Your request also mentions the use of the phrase "...return, or any type of transfer..." in Charitable Bingo Administrative Rules §§402.300(g)(6) and 402.301(e)(1) related to manufacture and distributor record keeping for pull-tab bingo tickets and bingo paper, respectively. You state that those provisions "seem to suggest that certain 'take back' transactions between a licensed distributor and licensed authorized organization would not be prohibited." As demonstrated above, the statute clearly prohibits such a transaction. Because an agency rule cannot contradict its authorizing statute, the only reasonable interpretation of those rules provisions is that they allow for a return from a distributor to a manufacturer, but not from an organization to a distributor.

Because the answer to your first question is "no," there is no need to respond to your second question.

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### SUMMARY

A licensed bingo distributor may not receive or "take back" returned bingo equipment or bingo supplies from a licensed authorized organization. According to Tex. Occ. Code §2001.407(c), "A licensed distributor may not receive by purchase or otherwise bingo equipment or supplies from a person other than a licensed manufacturer or another licensed distributor."

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretative 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 issuance. All the information provided herein is subject to changes in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue at the time of the facts presented in the Request. Therefore, this opinion must not be relied upon as a pre-determination regarding any conduct which is not substantially consistent with the opinion and the facts stated in the request.

Sincerely,

LaDonna Castañuela, Director  
Charitable Bingo Operations Division

cc:

Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Clark E. Smith, Commissioner  
Jamey Steen, Commissioner  
Ryan Mindell, Executive Director  
Bob Biard, General Counsel  
Tyler Vance, Assistant General Counsel



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**From:** LaDonna Castañuela, Charitable Bingo Operations Division Director, Texas Lottery Commission

A handwritten signature in dark ink, appearing to read "LDC", is written over the name of the sender.

**Date:** May 22, 2024

**Re:** Charitable Bingo Operations Division Output Metrics - April 2024

## Licensee Information

<u>License Type</u>	<u>Active</u>	<u>Administrative Hold</u>
Conductor	900	33
Lessor	226	62
Distributor	12	0
Manufacturer	19	0
BingoPlayingLocations	292	0

## Licensing

Number of original applications received	3
Number of renewal applications received	60
Number of worker registry applications received	226
Number of original licenses issued	7
Number of renewal licenses issued	54
Number of worker registry badges issued	211
Average Bingo License (Temporary) Processing Time (Days)	4.06
Average Bingo License (Amendments) Processing Time (Days)	6
Average Bingo License (Originals) Processing Time (Days)	44.67
Average Bingo License (Renewals) Processing Time (Days)	12.52

## **Accounting**

Total payments received	394	\$4,027,203.72
Electronic Payment through Bingo Services Portal	312	\$3,624,717.09
Received by mail	82	\$402,486.63
Number of quarterly reports processed	902	

## **Audit Services**

Number of audits and game inspections completed	23
Number of audits completed	14
Number of game inspections completed	9
Number of complaints received	6
Number of complaint investigations completed	8

## **Compliance**

Number of administrative actions	
Applications Denied	0
Settlement Agreements	0
Agreed Orders	0
Total administrative penalties received	\$1,600.00
Worker Registry Activity	
Applications Denied	4
Workers Removed	1

## **Education**

Number of individuals receiving education	59
On-line	59
On-site	0



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**From:** LaDonna Castañuela, Charitable Bingo Operations Division Director, Texas Lottery Commission

*LDC*

**Date:** May 22, 2024

**Re:** Charitable Bingo Operations Division Output Metrics - May 2024

## Licensee Information

<u>License Type</u>	<u>Active</u>	<u>Administrative Hold</u>
Conductor	900	33
Lessor	226	62
Distributor	12	0
Manufacturer	19	0
BingoPlayingLocations	292	0

## Licensing

Number of renewal applications received	31
Number of worker registry applications received	156
Number of renewal licenses issued	73
Number of worker registry badges issued	197
Average Bingo License (Temporary) Processing Time (Days)	2.09
Average Bingo License (Amendments) Processing Time (Days)	5.91
Average Bingo License (Renewals) Processing Time (Days)	30.56

## Accounting

Total payments received	29	\$81,590.67
Electronic Payment through Bingo Services Portal	9	\$17,677.17
Received by mail	20	\$63,913.50
Number of quarterly reports processed	132	



## **Audit Services**

Number of audits and game inspections completed	9
Number of audits completed	6
Number of game inspections completed	3
Number of complaints received	8
Number of complaint investigations completed	6

## **Compliance**

Number of administrative actions	
Applications Denied	0
Settlement Agreements	0
Agreed Orders	0
Total administrative penalties received	null
Worker Registry Activity	
Applications Denied	2
Workers Removed	0

## **Education**

Number of individuals receiving education	40
On-line	40
On-site	0