

OFFICE OF THE GOVERNOR

ROBERT BENTLEY
GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

September 20, 2016

Via Email and United States Mail

Honorable E. Paul Jones
District Attorney
P.O. Box 830568
Tuskegee, AL 36083

Andre Brunson
Macon County Sheriff
246 County Road 10
Major Bernice Austin Drive
Tuskegee, AL 36083

Re: Victoryland Operation in Macon County in Violation of Alabama Law

Dear District Attorney Jones and Sheriff Brunson:

It is widely known that VictoryLand began operations on September 13, 2016 and continues as of today's date to operate electronic bingo machines. This is a violation of Alabama law.

Electronic bingo has been clearly disallowed by Alabama case law as a form of lottery prohibited under Alabama's Constitution. Recently, the Alabama Supreme Court in *Houston County Economic Development Authority v. State of Alabama*, 168 So.3d 4, 9 (Ala. 2014), stated:

“[t]his Court repeatedly has held that “bingo” is a form of lottery prohibited by Ala. Const. 1901, Art. IV, § 65. See, e.g., *Barber Cornerstone Cmty. Outreach, Inc.*, 42 So.3d 65, 78 (Ala. 2009); *City of PiedmontEvans*, 642 So.2d 435, 436 (Ala. 1994).”

The various local Constitutional Amendments that provide exceptions to the general prohibition of lotteries permit *only* the traditional form of bingo. The Alabama Supreme Court has consistently held that these amendments do not allow bingo to be played on electronic devices. Most recently when considering Amendment 744 (applicable in Macon County), the Alabama Supreme Court reiterated this holding:

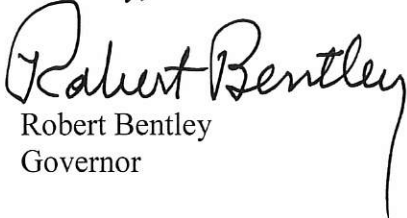
“[T]he game traditionally known as bingo is not one played by or within an electronic or computerized machine, terminal, or server, but is one played outside of machines and electronic circuitry. It is a group activity, and one that requires a meaningful measure of human interaction and skill. This includes attentiveness and discernment and physical, visual, auditory, and verbal interaction by and between those persons who are playing and between the players and a person commonly known as the “announcer” or “caller,” who is responsible for calling out the randomly drawn designations and allowing time between each call for the players to check their cards and to physically mark them accordingly.”

State of Alabama v. \$223,405.86, -- So. 3d ---, 2016 WL 127039 (Ala. 2016) (quoting *Houston Cty. Econ. Dev. Auth. v. State*, 168 So. 3d at 18 (2014)). This holding clearly indicates that the game of bingo may not be played on electronic machines in Macon County.

On November 5, 2015, Governor Bentley issued Executive Order No. 13 to reiterate longstanding Alabama law requiring enforcement of state laws by local law enforcement. Specifically, “the primary responsibility for enforcement of Alabama’s criminal laws shall remain with the sheriffs and district attorneys of each County as guided by their careful interpretation of the laws of the State of Alabama in their capacity as constitutional officers and officers of the courts.” See Governor Bentley Executive Order Number 13. A sheriff and district attorney may not personally interpret the laws of our state contrary to the interpretation of our Supreme Court. Regardless of personal opinion or public sentiment, the sheriffs and district attorneys of each County must enforce the law as interpreted by the Alabama Supreme Court.

In accordance with Alabama law and echoed by Governor Bentley’s Executive Order No. 13, we jointly call upon you in your roles as local law enforcement officers to enforce Alabama law prohibiting lotteries and gift enterprises, including electronic bingo, by enjoining the continued operation of the illegal electronic bingo presently ongoing at VictoryLand, through the use of appropriate law enforcement action. In order to ensure that appropriate and timely action is taken to stop this illegal activity, please provide written acknowledgement of this directive and details of your planned enforcement by September 30, 2016, to our offices.

Sincerely,


Robert Bentley
Governor



Luther Strange
Attorney General