

SENATE COMMITTEE ON INTERNATIONAL RELATIONS AND TRADE
79TH LEGISLATURE

SENATOR EDDIE LUCIO, JR.
Chair



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September 22, 2006

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SEP 27 2006
ACTION BY Nancy Fuller
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The Honorable Greg Abbott
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

RQ-0536-GA

Dear General Abbott:

As chair of the Senate Committee on International Relations & Trade, I ask for your opinion on several questions regarding the disposition of seized gambling paraphernalia, specifically "eight-liner" slot machines, by a county.

Sheriff Omar Lucio of Cameron County has requested that I seek your opinion clarifying the manner by which seized gambling paraphernalia may be sold as surplus county property. Specifically, Sheriff Lucio and the Cameron County District Attorney's Office have been diligent in prosecuting the use of, and subsequently confiscating, "eight-liner" equipment in Cameron County. Following forfeiture under Article 18.18, Code of Criminal Procedure, the gambling equipment is disposed of as surplus or salvage county property at public auction as provided by Subchapter D, Chapter 263, Local Government Code. Unfortunately, since the gambling equipment is sold at public auction, it finds its way back into the local community and is again used for illegal activity. As a result, Sheriff Lucio finds that Cameron County is frequently confiscating and auctioning off the very same equipment.

At the outset, is Subchapter D, Chapter 263, Local Government Code, applicable to the disposal of the seized gambling equipment as surplus or salvage property in this situation? Are there any other statutes that would provide alternative methods of disposal? Specifically, Sheriff Lucio wants to know whether the equipment could be sold to private investors by a method other than at an open auction.

While a court could order the equipment destroyed under Article 18.18, the county would like to sell the equipment in such a manner as to ensure that the equipment is not used in the local community or anywhere else its use is illegal. To this end, instead of sale at a public auction, could the county use a competitive bidding procedure under which bidders are required to contractually agree to take the equipment to a jurisdiction where its use is not illegal? I recognize that geographic preferences in competitive bidding procedures are usually disfavored (see Op. Tex. Att'y Gen. Nos.

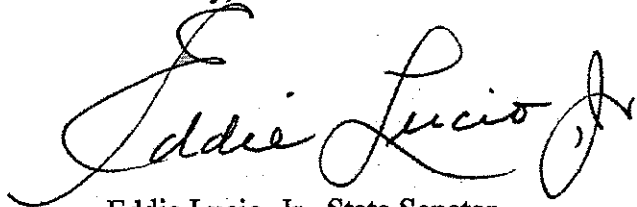


The Honorable Greg Abbott
September 20, 2006
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DM-113 (1992) and MW-139 (1980)), but I believe this situation is different as no preference is being shown for the geographic location of any bidder. Instead the county would require that the bidder agree that the equipment will not be used in a location in which its use would violate state or local law. In the normal competitive bidding context, the paramount policy involved is that the county should receive the best value possible. In this context, however, it is of equal or greater importance that the equipment not be used in violation of the law.

Given the benefits of removing illegal gambling equipment from this state and the fiscal benefits to the county of selling rather than destroying these machines, I respectfully request your opinion on these questions. Thank you in advance for your consideration of this matter. Please do not hesitate to contact me if you have any questions or need further information.

Sincerely,

A handwritten signature in cursive script that reads "Eddie Lucio, Jr." with a stylized flourish at the end.

Eddie Lucio, Jr., State Senator
Chair, Senate Committee on International
Relations & Trade

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August 14, 2006

The Honorable Senator Eddie Lucio
7 North Park Plaza
Brownsville, Texas 78521

REF: Eight-Liner Machines

Dear Senator Lucio,

As per our telephone conversation last week, I am requesting your assistance in obtaining a ruling from the Attorney General's office regarding the sale of eight-liner gambling machines. It would be most beneficial to our community and our county if these machines could be sold to interested parties with the understanding that the machines be taken out of State. Private investors have been inquiring into purchasing the machines and it would be favorable to sell them to these investors instead of selling them in open auction.

I would like to sell the machines in this manner due to the District Attorney being adamant about prosecuting persons gambling with eight-liners. On various occasions, we have assisted the District Attorney's office in confiscating several machines and his office has prosecuted persons caught gambling with these machines. However, by selling at public auction, we will be bringing the machines back into the community and it will be a never-ending vicious circle. In addition, gambling brings in other types of illegal activities, such as drugs, prostitution and organized crime.

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Senator Lucio
August 14, 2006

Gambling with eight-liner machines has been a form of entertainment for some elderly individuals on fixed incomes. These individuals have spent their entire checks in establishments with eight-liners leaving these elderly people completely destitute. Some of these elderly people are those criminally prosecuted by the District Attorney's Office.

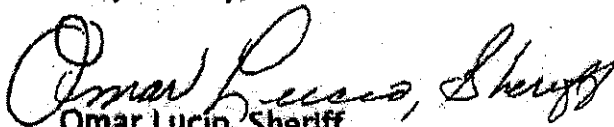
By allowing us to sell these machines to private investors, we can get a better price for the machines because we can sell the entire bulk of machines. On the other hand, if we sell them at public auction, only certain machines may be selected leaving us with machines to store or bury. We would save money by not having to pay the auctioneer's fee which can cost from \$6,000 to \$10,000. Since some of the machines have been awarded to the Sheriff's Office and some to the District Attorney's Office, we both share in the profits. In essence, we will help the taxpayer's by saving auction fees and getting a better price which in turn will help pay for personnel, overtime costs and equipment.

Until the legislator's address the eight-liner machine gambling issue, it creates a very difficult problem for the District Attorney's Office and all local law enforcement because there are proponents for and against this issue.

We are respectfully requesting a written answer to our request in one week or the machines will be sold at public auction.

If you need further information, please contact me.

Respectfully,


Omar Lucio, Sheriff
Cameron County-Texas