

HOUSE BILL REPORT

SJM 8028

As Passed House:

February 29, 1996

Brief Description: Requesting clarification of the Indian Gaming Regulatory Act of 1988.

Sponsors: Senators Wojahn, Pelz, Sutherland, Heavey, Haugen, Schow, Oke and Morton.

Brief History:

Committee Activity:

Commerce & Labor: 2/22/96 [DP].

Floor Activity:

Passed House: 2/29/96, 69-24.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives McMorris, Chairman; Hargrove, Vice Chairman; Thompson, Ranking Minority Member; Conway; Cairnes; Fuhrman; Goldsmith and Lisk.

Minority Report: Do not pass. Signed by 3 members: Representatives Romero, Assistant Ranking Minority Member; Cody and Cole.

Staff: Pam Madson (786-7166).

Background: In 1988, Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a comprehensive framework for conducting gambling activity by Indian tribes.

The IGRA allows tribes to conduct Class I gaming without state approval. Class I gaming includes "social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in as part of or in connection with tribal ceremonies or celebrations." Class II gaming is allowed as long as the gaming is permitted within the state. Class II gaming includes bingo, and if played at the same location as bingo, "pulltabs, lotto, punchboards, tip jars, instant bingo and other games similar to bingo provided the state permits such gaming." Banking card games, and electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind

are specifically excluded from the definition of Class II gaming. Class III gaming is defined as "all forms of gaming that are not Class I gaming or Class II gaming."

Class III gaming may be operated on tribal lands only if the games are (1) authorized by the governing body of the tribe; (2) located in a state that permits such gaming for any purpose by any person, organization, or entity; and (3) conducted in conformance with a tribal-state compact entered into by the Indian tribe and the state. A tribe that desires to conduct Class III gaming must request the state to negotiate a compact. The state must negotiate with the tribe in good faith.

The language of the IGRA that allows Class III gaming activity on tribal lands that "are located in a state that permits such gaming for any purpose" raises the question of whether the state must negotiate with the tribes in Washington over the operation of slot machines under the provisions of the IGRA because the state allows some forms of Class III gaming. Washington State has been unwilling to negotiate with the tribes for the operation of slot machines or any other Class III gaming activity that is not permitted by state law. The state has filed a law suit in federal court to resolve the question of whether the state must negotiate the operation of gambling devices including slot machines under the IGRA. Seeking a remedy through the courts may further interpret the IGRA in a particular case. Congress may also clarify the federal law in this area through legislation.

Summary of Bill: Congress is asked to clarify the Indian Gaming Regulatory Act to ensure that only those specific gambling activities authorized under state law are subject to negotiation between tribal governments and a state government and that no state is required to negotiate on any specific type of gambling that is not either authorized or played within a particular state. Congress is further asked to clarify the IGRA to recognize the importance of non-Indian gambling to a state's economic well-being and that balance must be achieved between Indian and non-Indian gambling activity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: When the federal law was passed, it allowed Indian tribes to do whatever was permitted by state law. The state permitted certain types of gambling, but the state controlled such things as the hours of operation per day and the number of tables allowed. The state allowed casino nights for charitable gaming but the amount of money they could make was limited. Certain types of tribal gaming are not restricted like non-tribal gaming. Our local card rooms are going out of business because they cannot compete with the casinos. The increasing number of casinos may

end up bankrupting some casinos because there are too many for the market. The federal government needs to reexamine its position on Indian gaming. The Legislature, not the Gambling Commission, should set the state's policy regarding gambling.

Testimony Against: The Indian Gaming Regulatory Act is a direct result of a case from California where the U.S. Supreme Court ruled that tribes can gamble in any manner permitted within the state. The state looked to Congress to give some policy direction on Indian gaming, and the state had a great deal of input into the act. It sets out a negotiation process which should be supported by the state. The process in Washington has the Gambling Commission doing the negotiating.

Testified: (In favor) Senator Wojahn, prime sponsor. (Opposed) Randy Scott, Puyallup Tribal Council, Lummi Indian Business Committee, Colville Confederated Tribes, and Quinault Indian Nation.