

103^D CONGRESS
1ST SESSION

H. R. 1028

To amend the Indian Gaming Regulatory Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mr. TORRES introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To amend the Indian Gaming Regulatory Act, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CLASS III CERTIFICATION.**

4 (a) IN GENERAL.—Section 11(d) of the Indian Gam-
5 ing Regulatory Act (25 U.S.C. 2710(d)) is amended—

6 (1) in paragraph (1)(C), by inserting after
7 “paragraph (3)” the following: “, or with a class III
8 certificate issued pursuant to paragraph (10),”;

9 (2) in paragraph (2)(C), by inserting after
10 “paragraph (3) by the Indian tribe” the following:

1 “or the class III certificate issued pursuant to para-
2 graph (10)”;

3 (3) in paragraph (3)(A), by striking “the State
4 shall negotiate with the Indian tribe” and inserting
5 the following: “the State may consent to enter into
6 good faith negotiations with the tribe to enter into
7 such a compact,”;

8 (4) by amending paragraph (6) to read as fol-
9 lows:

10 “(6) The provisions of section 5 of the Act of
11 January 2, 1951 (64 Stat. 1135; 15 U.S.C. 1175),
12 shall not apply to any gaming conducted—

13 “(A) under a Tribal-State compact entered
14 into under paragraph (3) by a State in which
15 gaming devices are legal; or

16 “(B) under a class III certificate issued
17 pursuant to paragraph (10), which applies to
18 gaming on Indian lands located in a State in
19 which gaming devices are legal; and

20 “(C) is in effect.”;

21 (5) in paragraph (7)(A)(i), by adding at the
22 end the following: “, if such State, pursuant to para-
23 graph (7)(B)(i) or (9) consents in writing to the ju-
24 risdiction of the Federal court,”;

1 (6) in paragraph (7)(A)(iii), by adding before
2 the period at the end thereof the following: “or a
3 Class III certificate approved under paragraph
4 (10)”;

5 (7) in paragraph (7)(B)(vii) by—

6 (A) striking out “and” at the end of
7 subclause (I);

8 (B) striking out the period at the end of
9 subclause (II) and inserting in lieu thereof “,
10 and”; and

11 (C) adding at the end the following:

12 “(III) which do not include provi-
13 sions which impose any obligation on
14 a State to regulate such gaming.”;

15 (8) by redesignating paragraph (9) as para-
16 graph (11); and

17 (9) by inserting after paragraph (8) the follow-
18 ing new paragraphs:

19 “(9)(A) An Indian tribe may conduct Class III
20 gaming pursuant to a Class III certificate issued by
21 the Commission under paragraph (10).

22 “(B) A tribe may apply for a Class III certifi-
23 cate under paragraph (10) only if—

24 “(i) a State fails to consent to the jurisdic-
25 tion of the Federal court pursuant to paragraph

1 (7)(A)(i) within 30 days of the effective date of
2 this amendment or within 180 days of the deliv-
3 ery to the State of a request by a tribe for com-
4 pact negotiations as provided for by paragraph
5 (3)(A), whichever is longer,

6 “(ii) in an action brought against a State
7 by a tribe, a State raises any defense to the ju-
8 risdiction of the Federal court on any grounds
9 which are not curable by the tribal plaintiff, or

10 “(iii) the Federal court finds it lacks juris-
11 diction for any reason not curable by the tribe.

12 “(10)(A) A tribe otherwise permitted, pursuant
13 to paragraph (9) to apply for a Class III certificate,
14 may do so by submitting to the Commission, an ap-
15 plication for a Class III certificate which meets the
16 requirements of subparagraph (B).

17 “(B) The Commission shall approve any appli-
18 cation for a Class III certificate if—

19 “(i) the application provides that any gam-
20 ing authorized under the Class III certificate be
21 conducted in accordance with a tribal ordinance
22 or resolution pursuant to paragraph (8), and

23 “(ii) the gaming activities proposed in the
24 application are located in a State that permits

1 such gaming for any purpose, by any person,
2 organization, or entity.

3 “(C) The Commission may add regulatory or li-
4 censing provisions as a condition of approval for a
5 Class III certificate if such amendments are reason-
6 able and necessary to implement the purposes of this
7 Act, except that the certificate may not include pro-
8 visions which impose any obligation on a State to
9 regulate such gaming.

10 “(D) If the Commission does not approve a
11 Class III certificate properly submitted by a tribe
12 under paragraph (9) or does not provide conditions
13 of approval under subparagraph (C) before the date
14 that is 45 days after the date on which the Class III
15 certificate was submitted to the Commission for ap-
16 proval, the Class III certificate shall be considered
17 to have been approved by the Commission, but only
18 to the extent the Class III certificate is consistent
19 with the provisions of this Act.

20 “(E) The Commission may impose upon tribes
21 with Class III gaming certificates, an annual fee
22 necessary to defray the reasonable costs of regula-
23 tion, but not more than one-half of one percent of
24 the net revenue derived from Class III gaming.
25 Nothing in this subsection shall grant the Commis-

1 sion any power to impose any such fees on Class III
2 gaming activities conducted pursuant to Tribal-State
3 compacts.”.

4 (b) CONFORMING AMENDMENT.—Section 7(b) of the
5 Indian Gaming Regulatory Act (25 U.S.C. 2706(b)) is
6 amended—

7 (1) in paragraph (9), by striking “and” at the
8 end thereof;

9 (2) in paragraph (10), by striking the period at
10 the end thereof and inserting in lieu thereof “; and”;
11 and

12 (3) by adding at the end thereof the following:

13 “(11) shall approve and modify class III certifi-
14 cates as necessary to carry out the duties of the
15 Commission under this chapter.”.

16 (c) CONFORMING AMENDMENT TO TITLE 18.—Sec-
17 tion 1166(c) of title 18, United States Code, is amended—

18 (1) in paragraph (1), by striking out “, or” at
19 the end thereof and inserting in lieu thereof a semi-
20 colon;

21 (2) in paragraph (2), by striking out the period
22 at the end and inserting in lieu thereof “; or”; and

23 (3) by adding at the end thereof the following:

24 “(3) gaming conducted in compliance with a
25 class III certificate issued under section 11(d)(10) of

1 the Indian Gaming Regulatory Act (25 U.S.C.
2 2710(d)(10)).”.

3 **SEC. 2. AFFECT ON TRIBAL-STATE COMPACTS.**

4 Nothing in this Act, nor in any of the amendments
5 made by this Act shall, in any way, impair the validity
6 of any Tribal-State compact entered into pursuant to sec-
7 tion 11(d) of the Indian Gaming Regulatory Act (25
8 U.S.C. 2710(d)).

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