

Broken Pact: New Rules Could Cost Alabama Jobs

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When Congress passed the Indian Gaming Regulatory Act in 1988, the legislation was explicitly intended to promote “tribal self-sufficiency.”

Our Tribe, the Poarch Band of Creek Indians, has worked hard to avail itself of the opportunities which that law and Indian gaming could provide us. But now those efforts threaten to be undermined by proposed changes in federal rules governing Indian gaming—changes that could put our gaming operations out of business.

We are proud that our businesses have been good for the economy of Alabama. In 2004, our gaming enterprise alone created more than 900 jobs -- 90% of which are held by our non-Indian neighbors. Our Tribal businesses buy goods and services locally, and generate federal, payroll, sales and excise taxes, and state government revenue. Gaming has allowed us to educate our children, build houses and medical clinics, and improve the care of our elderly. We also work hard to be a good neighbor. In times of need, we do not hesitate to volunteer our people, our time, and our financial resources.

We have done this with no help from the leadership of our State. Our sitting Governor, like those before him, has refused to negotiate a compact with us that would have offered the State a substantial portion of our gaming revenues in exchange for limiting unregulated gaming. States that have similar compacts have benefited enormously. But our Governor’s recalcitrance has cost Alabama hundreds of millions of dollars that could have been put toward education, health care and other needs of Alabama’s citizens. Meanwhile, the spread of unlicensed, unregulated non-Indian gaming like electronic sweepstakes machines has spread like kudzu throughout the State. And notably, those who operate unregulated gaming in Alabama share no revenues with the State.

Still, federal law recognizes our right to operate electronic bingo games, (known as Class II games), and over the past 20 years, revenue from these games has put us on the road to self-sufficiency. But now, even that is threatened.

The Commission is considering adopting rules that would automatically reclassify the Class II machines we use now in our facilities up to the Class III—making them illegal unless we have a compact with the State.

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So we find ourselves in an economic catch-22. The federal laws that have recognized our right to operate are being changed and the State refuses to negotiate with us.

We have always worked hard to make sure our gaming operation is run by the book and complies with the specific requests of both our regulators, the Tribal Gaming Commission and the National Indian Gaming Commission. Now, as we wait to see how these federal laws are changed, we are left to worry that our gaming operation will be irreparably harmed.

We estimate an 80 percent loss of revenue at our facility in Atmore, and the potential loss of 500 jobs at our facilities in Montgomery should the rules go into effect. Clearly, some of our facilities will be forced to close. And again, the vast majority of the jobs that will be lost are held by non-Indians—our neighbors who have benefited from our businesses. The impact on the State's economy will be noticeable.

This is a bitter pill to swallow, especially as we look at how unregulated Class III gaming has been allowed to flourish across the State. Last year, a Birmingham race track began operating electronic sweepstakes machines and on interstate highways, sweepstakes parlors dot the landscape. While the State challenged the operation of these games, the court found them to fall within a loophole of Alabama law – a ruling that further undermines our ability to remain competitive.

Simply put, the economic future of our tribe is on the line.

Nearly two decades ago, the Federal government endeavored to promote tribal self sufficiency. Now, 20 years later, changes in the rules threaten to put us out of business and reverse the gains we have made.

We support well-regulated gaming. And we support the law's original intent. To that end, we ask that the Commission allow tribes like ours to continue operating the games that are currently authorized by federal law, as well as the other games currently being operated by others in Alabama. We have played by the rules; we have followed the law. The Commission should recognize our willingness to be good citizens and give us a chance to compete in a fair environment. This is especially important in a State like ours where the playing field is far from level.

