

## Union Calendar No.

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 4893****[Report No. 109-]**

To amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2006

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

SEPTEMBER --, 2006

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 7, 2006]

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**A BILL**

To amend section 20 of the Indian Gaming Regulatory Act to restrict off-reservation gaming.

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. SHORT TITLE.**

4 *This Act may be cited as the “Restricting Indian Gam-*  
5 *ing to Homelands of Tribes Act of 2006”.*

1 **SEC. 2. RESTRICTION ON OFF-RESERVATION GAMING.**

2 *Section 20 of the Indian Gaming Regulatory Act (25*  
3 *U.S.C. 2719) is amended—*

4 *(1) by amending subsection (b)(1) to read as fol-*  
5 *lows:*

6 *“(b)(1) Subsection (a) will not apply when lands are*  
7 *taken in trust for the benefit of an Indian tribe that is*  
8 *newly recognized, restored, or landless after the date of the*  
9 *enactment of subsection (f), including those newly recog-*  
10 *nized under the Federal Acknowledgment Process at the Bu-*  
11 *reau of Indian Affairs, and the following criteria are met:*

12 *“(A) The Secretary determines that such lands*  
13 *are within the State of such tribe and are within the*  
14 *primary geographic, social, historical, and temporal*  
15 *nexus of the Indian tribe.*

16 *“(B) The Secretary determines that the proposed*  
17 *gaming activity would not be detrimental to the sur-*  
18 *rounding community and nearby Indian tribes.*

19 *“(C) Concurrence by the Governor in conform-*  
20 *ance with laws of that State.*

21 *“(D) Mitigation by the Indian tribe in accord-*  
22 *ance with this subparagraph. For the purposes of the*  
23 *Indian tribe mitigating the direct impact on the*  
24 *county or parish infrastructure and services, the In-*  
25 *Indian tribe shall negotiate and sign, to the extent prac-*  
26 *ticable during the compact negotiations described in*

1        *section 11(d)(3), a memorandum of understanding*  
2        *with the county or parish government. Such mitiga-*  
3        *tion requirements shall be limited to the direct effects*  
4        *of the tribal gaming activities on the affected county*  
5        *or parish infrastructure and services. If a memo-*  
6        *randum of understanding is not signed within one*  
7        *year after the Indian tribe or county or parish has*  
8        *notified the other party and the Secretary, by cer-*  
9        *tified mail, a request to initiate negotiations, then the*  
10       *Secretary shall appoint an arbitrator who shall estab-*  
11       *lish mitigation requirements of the Indian tribe.”;*  
12       *and*

13                *(2) by adding at the end the following new sub-*  
14        *sections:*

15        *“(e)(1) In order to consolidate class II gaming and*  
16        *class III gaming development, an Indian tribe may host*  
17        *one or more other Indian tribes to participate in or benefit*  
18        *from gaming conducted under this Act and in conformance*  
19        *with a Tribal-State compact entered into by each invited*  
20        *Indian tribe and the State under this Act upon any portion*  
21        *of Indian land that was, as of October 17, 1988, located*  
22        *within the boundaries of the reservation of the host Indian*  
23        *tribe, so long as each invited Indian tribe has no ownership*  
24        *interest in any other gaming facility on any other Indian*  
25        *lands and has its primary geographic, social, historical,*

1 *and temporal nexus to land in the State in which the In-*  
2 *dian land of the host Indian tribe is located.*

3       “(2) *An Indian tribe invited to conduct class II gam-*  
4 *ing or class III gaming under paragraph (1) may do so*  
5 *under authority of a lease with the host Indian tribe. Such*  
6 *a lease shall be lawful without the review or approval of*  
7 *the Secretary and shall be deemed by the Secretary to be*  
8 *sufficient evidence of the existence of Indian land of the in-*  
9 *vited Indian tribe for purposes of Secretarial approval of*  
10 *a Tribal-State compact under this Act.*

11       “(3) *Notwithstanding any other provision of law, the*  
12 *Indian tribes identified in paragraph (1) may establish the*  
13 *terms and conditions of their lease and other agreements*  
14 *between them in their sole discretion, except that in no case*  
15 *may the total payments to the host Indian tribe under the*  
16 *lease and other agreements exceed 40 percent of the net reve-*  
17 *nues (defined for such purposes as the revenue available to*  
18 *the 2 Indian tribes after deduction of costs of operating and*  
19 *financing the gaming facility developed on the leased land*  
20 *and of fees due to be paid under the Tribal-State compact)*  
21 *of the gaming activity conducted by the invited Indian*  
22 *tribe.*

23       “(4) *An invited Indian tribe under this subsection*  
24 *shall be deemed by the Secretary and the Commission to*  
25 *have the sole proprietary interest and responsibility for the*

1 *conduct of any gaming on lands leased from a host Indian*  
2 *tribe.*

3 “(5) *Conduct of gaming by an invited Indian tribe*  
4 *on lands leased from a host Indian tribe under this sub-*  
5 *section shall be deemed by the Secretary and the Commis-*  
6 *sion to be conducted under the Act upon Indian lands—*

7 “(A) *of the invited Indian tribe;*

8 “(B) *within the jurisdiction of the invited In-*  
9 *dian tribe; and*

10 “(C) *over which the invited Indian tribe has and*  
11 *exercises governmental power.*

12 “(6) *Notwithstanding the foregoing, the gaming ar-*  
13 *rangement authorized by this subsection shall not be con-*  
14 *ducted on any Indian lands within the State of Arizona.*

15 “(7) *Any gaming authorized by this subsection shall*  
16 *not be conducted unless it is—*

17 “(A) *consistent with the Tribal-State compacting*  
18 *laws of the State in which the gaming activities will*  
19 *be conducted;*

20 “(B) *specifically identified as expressly author-*  
21 *ized in a tribal-State compact of the invited Indian*  
22 *tribe approved by an Act of the legislature of the*  
23 *State in which the gaming will be conducted; and*

24 “(C) *specifically identified as expressly author-*  
25 *ized in a tribal-State compact of the invited Indian*

1        *tribe approved by the Governor of the State in which*  
2        *the gaming will be conducted.*

3        *“(8) Host tribe compacts shall not be affected by the*  
4        *amendments made by this subsection.*

5        *“(f) An Indian tribe shall not conduct gaming regu-*  
6        *lated by this Act on Indian lands outside of the State in*  
7        *which the Indian tribe is primarily residing and exercising*  
8        *tribal government authority on the date of the enactment*  
9        *of this subsection, unless such Indian lands are contiguous*  
10       *to the lands in the State where the tribe is primarily resid-*  
11       *ing and exercising tribal government authority.”.*

12       **SEC. 3. STATUTORY CONSTRUCTION.**

13       *(a) IN GENERAL.—The amendment made by para-*  
14       *graph (1) of section 2 shall be applied prospectively. Com-*  
15       *pacts or other agreements that govern gaming regulated by*  
16       *the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)*  
17       *on Indian lands that were in effect on the date of the enact-*  
18       *ment of this Act shall not be affected by the amendments*  
19       *made by paragraph (1) of section 2.*

20       *(b) EXCEPTION.—The amendments made by section 2*  
21       *shall not apply to any lands for which an Indian tribe,*  
22       *prior to March 7, 2006, has submitted to the Secretary or*  
23       *Chairman a fee-to-trust application or written request re-*  
24       *quiring an eligibility determination pursuant to section*  
25       *20(b)(1)(A) or clause (ii) or (iii) of section 20(b)(1)(B) of*

1 *the Indian Gaming Regulatory Act (25 U.S.C.*  
2 *2719(b)(1)(A), 2719(b)(1)(B)(ii), and 2719(b)(1)(B)(iii),*  
3 *respectively); provided that such lands are located within—*

4 *(1) the State where the Indian tribe primarily*  
5 *resides; and*

6 *(2) an area where the Indian Tribe has a pri-*  
7 *mary geographical, historical, and temporal nexus.*

8 *(c) FURTHER EXCEPTION.—The amendments made by*  
9 *section 2 shall not affect the right of any Indian Tribe to*  
10 *conduct gaming on Indian lands that are eligible for gam-*  
11 *ing pursuant to section 20 of the Indian Gaming Regu-*  
12 *latory Act (25 U.S.C. 2719), as determined by the National*  
13 *Indian Gaming Commission, Secretary of the Interior or*  
14 *a Federal court prior to the date of the enactment of this*  
15 *Act.*

16 **SEC. 4. REGULATIONS REQUIRED.**

17 *Not later than 180 days after the date of the enactment*  
18 *of this Act, the Secretary of the Interior shall promulgate*  
19 *regulations to implement section 20 of the Indian Gaming*  
20 *Regulatory Act (25 U.S.C. 2719). The regulations shall re-*  
21 *quire tribal applicants for any of the exceptions listed in*  
22 *section 20 of the Indian Gaming Regulatory Act to have*  
23 *an aboriginal or analogous historic connection to the lands*  
24 *upon which gaming activities are conducted under the In-*  
25 *dian Gaming Regulatory Act.*