



Federal Gaming Law Impact on current & future Alabama Gambling Locations

The expansion of gambling in Alabama has been thwarted by a lack of compact with the Poarch Creek Indians (PCI) and by Section 65 of Alabama's constitution. There has been no compact allowing Class III gambling in Alabama despite the longstanding legality of parimutuel betting partially because the IGRA (Indian Gaming Regulatory Act) prohibits gambling on tribal lands taken into trust after 1988 (only the Atmore location is currently in compliance as the other two PCI in-trust lands were taken into trust after 1988). Thus, the need for concurrence to allow Montgomery & Wetumpka's compliance and Class III gambling. In short, there has not been the political will to separate the lands or the issues.

Section 65 of Alabama's Constitution explicitly prohibits all games of chance. The proposed Constitutional Amendment, HB 151, would remove from Alabama law the long-standing public policy against gambling and establish new state policy creating a structure to promote and maximize revenues from gambling in the forms of a state lottery, slot-machine casinos, and Vegas-Style casinos on tribal lands. This legislative action, if approved by a vote of the people, would eliminate both the political and legal restraints on the Governor's concurring power and compacting power. The Constitutional Amendment would further require the Governor to exercise state compacting power for Class III casinos and designates the office of the Governor as the official "signature authority" of the state in the matter.

The Senate version of HB 151 suggests a possible protection of Birmingham, Huntsville, Lee, and Baldwin Counties in an attempt to limit a compact agreement to lands held in trust before February 6, 2024. However, that section is likely unenforceable as federal law preempts state law. In addition, federal approval of any current or future PCI owned lands are a virtual certainty due to the lax criteria for approval (contiguous land, land already owned, and tribal welfare) and the strong level of authority of the Secretary of Interior. Virtually all tribal land trust applications are approved. In fact, 100% of applications submitted in the Pacific Region from 2001-2011 were granted.

Note: any future Governor would be obligated to agree or disagree with the assured actions of the Department of Interior (whether additional tribal land casino locations are in the best interest of the tribe or if they might be detrimental to the surrounding community), but future Governors would have the same limitations as the current Governor as to whether he/she would have the ability to upend any approved expansion due to the aforementioned federal pre-emptive authority.

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