

# Union Calendar No. 386

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4893

[Report No. 109–650]

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 13, 2006

Additional sponsors: Mr. ADERHOLT, Mr. BACHUS, Mrs. BONO, Mr. WICKER, and Mr. ISSA

SEPTEMBER 13, 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 *italie*]

[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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

7               *(1) by amending subsection (b)(1) to read as fol-*  
 8 *lows:*

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

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

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

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

24               *“(D) Mitigation by the Indian tribe in accord-*  
 25 *ance with this subparagraph. For the purposes of the*  
 26 *Indian tribe mitigating the direct impact on the*

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

16                *(2) by adding at the end the following new sub-*  
17        *sections:*

18        *“(e)(1) In order to consolidate class II gaming and*  
19        *class III gaming development, an Indian tribe may host*  
20        *one or more other Indian tribes to participate in or benefit*  
21        *from gaming conducted under this Act and in conformance*  
22        *with a Tribal-State compact entered into by each invited*  
23        *Indian tribe and the State under this Act upon any portion*  
24        *of Indian land that was, as of October 17, 1988, located*  
25        *within the boundaries of the reservation of the host Indian*

1 *tribe, so long as each invited Indian tribe has no ownership*  
2 *interest in any other gaming facility on any other Indian*  
3 *lands and has its primary geographic, social, historical,*  
4 *and temporal nexus to land in the State in which the In-*  
5 *dian land of the host Indian tribe is located.*

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

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

1       “(4) *An invited Indian tribe under this subsection*  
2 *shall be deemed by the Secretary and the Commission to*  
3 *have the sole proprietary interest and responsibility for the*  
4 *conduct of any gaming on lands leased from a host Indian*  
5 *tribe.*

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

10               “(A) *of the invited Indian tribe;*

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

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

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

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

20               “(A) *consistent with the Tribal-State compacting*  
21 *laws of the State in which the gaming activities will*  
22 *be conducted;*

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

1        *tribe approved by an Act of the legislature of the*  
 2        *State in which the gaming will be conducted; and*

3            *“(C) specifically identified as expressly author-*  
 4        *ized in a tribal-State compact of the invited Indian*  
 5        *tribe approved by the Governor of the State in which*  
 6        *the gaming will be conducted.*

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

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

16       **SEC. 3. STATUTORY CONSTRUCTION.**

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

24       *(b) EXCEPTION.—The amendments made by section 2*  
 25       *shall not apply to any lands for which an Indian tribe,*

1 prior to March 7, 2006, has submitted to the Secretary or  
 2 Chairman a fee-to-trust application or written request re-  
 3 quiring an eligibility determination pursuant to section  
 4 20(b)(1)(A) or clause (ii) or (iii) of section 20(b)(1)(B) of  
 5 the Indian Gaming Regulatory Act (25 U.S.C.  
 6 2719(b)(1)(A), 2719(b)(1)(B)(ii), and 2719(b)(1)(B)(iii),  
 7 respectively); provided that such lands are located within—

8 (1) the State where the Indian tribe primarily  
 9 resides; and

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

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

20 **SEC. 4. REGULATIONS REQUIRED.**

21 Not later than 180 days after the date of the enactment  
 22 of this Act, the Secretary of the Interior shall promulgate  
 23 regulations to implement section 20 of the Indian Gaming  
 24 Regulatory Act (25 U.S.C. 2719). The regulations shall re-  
 25 quire tribal applicants for any of the exceptions listed in

1 *section 20 of the Indian Gaming Regulatory Act to have*  
2 *an aboriginal or analogous historic connection to the lands*  
3 *upon which gaming activities are conducted under the In-*  
4 *dian Gaming Regulatory Act.*





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