

1 SB379
2 117583-1
3 By Senator Bedford
4 RFD: Tourism and Marketing
5 First Read: 04-FEB-10

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8 SYNOPSIS: This bill proposes a general law that will
9 relieve non-Indian operators of bingo and operators
10 of maritime gaming on cruise ships docking in the
11 City of Mobile from certain legal disabilities that
12 do not apply to Indian tribes conducting bingo
13 under the Indian Gaming Regulatory Act.
14

15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To recognize that Indian tribes may conduct bingo
20 games using electronic bingo equipment under the Indian Gaming
21 Regulatory Act ("IGRA") free of certain legal burdens that
22 potentially encumber (i) the operators of maritime gaming on
23 cruise ships docking at saltwater ports in the state and (ii)
24 the non-Indian operators of bingo games in the state that are
25 equivalent to the bingo games conducted by Indian tribes; to
26 relieve certain qualified persons engaged in maritime gaming
27 and federally recognized bingo from legal burdens that are not

1 applicable to Indian tribes conducting competitive bingo
2 games; to define terms that include or are relevant to
3 substantive provisions of this act, including Class II gaming
4 under IGRA, federally recognized bingo, maritime gaming, and
5 any qualified person to be relieved of legal burdens under
6 this act; to provide limitations on the scope of this act; to
7 provide that no criminal prosecution under any provision of
8 Title 13A, Chapter 12, Article 2, Code of Alabama 1975, shall
9 be brought or maintained against any qualified person for
10 engaging in maritime gaming or federally recognized bingo; to
11 provide that bingo equipment permitted to be used in Class II
12 gaming under IGRA shall not constitute, or be deemed to be, a
13 "gambling device" or "slot machine" within the meaning of
14 Section 13A-12-20(5) and (10), Code of Alabama 1975, if such
15 bingo equipment is used by a qualified person engaged in
16 federally recognized bingo; to preclude the forfeiture by any
17 qualified person of real or personal property used or involved
18 in maritime gaming or federally recognized bingo; to declare
19 that certain "gambling devices" as defined by federal law may
20 be transported into or out of the state without violating
21 federal law; to provide that the provisions of this act shall
22 be severable; and to specify the effective date of this act
23 and to provide for a termination date.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Definitions.

26 The following words and phrases used in this act
27 shall have the following respective meanings:

1 (1) BINGO EQUIPMENT. Any electronic or mechanical
2 equipment, machine or device that is permitted to be used in
3 Class II gaming by IGRA or federal law enforcement practices
4 with respect to Indian gaming in the state, including, without
5 limitation thereto, electronic player terminals, central
6 computer servers containing processing capabilities for remote
7 player terminals, video consoles capable of providing game
8 results in different display modes, telephones and telephone
9 circuits, televisions, cables and other telecommunication
10 circuits, and satellites and related transmitting and
11 receiving equipment.

12 (2) CLASS II GAMING. The game of bingo as authorized
13 by IGRA to be conducted for the general public by an Indian
14 tribe in the state without the necessity of a tribal-state
15 compact applicable to such game of bingo. With respect to the
16 interpretation and application of this act, Class II gaming
17 shall be deemed to refer only to the nature of the game of
18 bingo itself that is conducted by the Indian tribe, including
19 the playing of such game with bingo equipment, and any
20 condition imposed by IGRA on Class II gaming related to the
21 use of tribal lands or matters of tribal governance, such as
22 the adoption of a tribal ordinance concerning Class II gaming,
23 the approval of such ordinance by the Chairman of the National
24 Indian Gaming Commission or the issuance of a tribal license
25 for Class II gaming, shall not be relevant in determining
26 whether federally recognized bingo is conducted in the same
27 manner, to the same extent, and under the same conditions as

1 Class II gaming. Further, for purposes of determining the
2 equivalence between Class II gaming and federally recognized
3 bingo, the nature, conditions and limits of Class II gaming
4 shall not be based upon any theoretical interpretation of IGRA
5 but on the actual game of bingo, including the use of bingo
6 equipment in playing such game, that is conducted by the
7 Indian tribe offering such game to the general public as
8 allowed by the regulations and practices of the National
9 Indian Gaming Commission and as enforced by federal officials
10 pursuant to 18 U.S.C. §1166.

11 (3) IGRA. The Indian Gaming Regulatory Act enacted
12 by the Congress of the United States, 25 U.S.C. §§2701-2721,
13 including all amendments thereof and supplements thereto at
14 any time enacted and the regulations promulgated thereunder
15 and maintained in effect by the National Indian Gaming
16 Commission.

17 (4) FEDERALLY RECOGNIZED BINGO. The game of bingo,
18 including the use of bingo equipment in the playing of such
19 game, that, insofar as the nature of the game itself is
20 concerned, is conducted for the general public on land that is
21 not Indian tribal lands by a person or persons other than an
22 Indian tribe in the same manner, to the same extent, and under
23 the same conditions (excluding regulation and supervision by
24 the National Indian Gaming Commission) as Class II gaming
25 conducted in the state by an Indian tribe. The ineligibility
26 of a person under IGRA to receive a tribal license to conduct
27 Class II gaming on Indian lands shall not be relevant in

1 determining whether such person is engaged in federally
2 recognized bingo at any other location in the state. Federally
3 recognized bingo shall never be allowed to be different in
4 nature or scope from Class II gaming, and if changes in IGRA,
5 whether due to Congressional enactment, an effective federal
6 court decision, or changes in the regulations or practices of
7 the National Indian Gaming Commission, should change the
8 nature or reduce the scope of Class II gaming or modify the
9 conditions thereof, the nature, scope or conditions of
10 federally recognized bingo shall ipso facto be changed,
11 reduced or modified, as the case may be, to correspond with
12 the altered Class II gaming.

13 (5) MARITIME GAMING. When used with reference to
14 cruise ships that embark and disembark passengers and take on
15 supplies at saltwater ports in the state, the term "maritime
16 gaming" means casino gaming conducted for profit on such ships
17 while cruising or anchored on the high seas beyond the
18 territorial jurisdiction of Alabama law. Maritime gaming
19 includes, without limitation thereto, all banked card and
20 table games and games played with "gambling devices" or "slot
21 machines" within the meaning of Section 13A-12-20(5) and (10),
22 Code of Alabama 1975, provided, however, maritime gaming shall
23 not be deemed to include any activities or relationships that
24 are unlawful under any federal or state law other than the
25 provisions of Title 13A, Chapter 12, Article 2, Code of
26 Alabama 1975, or any other state law intended to prohibit or
27 restrict gambling.

1 (6) QUALIFIED PERSON. Any person that conducted
2 federally recognized bingo at any location in the state on or
3 before December 1, 2009, and that since such date has
4 continued to engage in federally recognized bingo at such
5 location, or, alternatively, any person that engaged in
6 maritime gaming on or before December 1, 2009, with ships
7 embarking or disembarking passengers or taking on supplies at
8 any saltwater port in the state, and that since such date has
9 continued to engage in maritime gaming with ships embarking or
10 disembarking passengers or taking on supplies at any such
11 port. To be a qualified person with respect to federally
12 recognized bingo, such person is not required to have operated
13 the same bingo equipment continuously at the same location
14 during the period for which such person is to be deemed a
15 qualified person under this act, provided that such person did
16 engage in federally recognized bingo with bingo equipment at
17 such location in the state on or before December 1, 2009. A
18 qualified person may also be a person licensed by a regulatory
19 authority to conduct federally recognized bingo even though
20 not yet operating in any regulatory jurisdiction where
21 federally recognized bingo was engaged in before December 1,
22 2009, or after December 1, 2009.

23 (7) PERSON. Any natural person, corporation or
24 limited liability company, whether or not operated for profit,
25 partnership, association or other legal entity capable of
26 being sued or made subject to a criminal prosecution.

27 Section 2. Scope of Act.

1 (a) Nothing in this act shall be construed to
2 authorize any form of gambling in this state that would expand
3 Class II gaming now permitted to Indian tribes by IGRA or that
4 would obligate the state to negotiate a tribal-state compact
5 under IGRA with respect to Class III gaming.

6 (b) This act effectuates purposes unrelated to the
7 meaning or implementation of any amendment to the Constitution
8 of Alabama that authorizes games denominated as bingo in a
9 particular county or municipality, and this act shall be
10 interpreted and applied without regard to the meaning of any
11 such local constitutional amendment. Nothing contained in this
12 act shall be construed as attempting to supersede, modify or
13 affect the interpretation of any such local amendment to the
14 Constitution of Alabama.

15 (c) Nothing in this act shall be construed to
16 authorize lotteries or gift enterprises for any purpose in
17 contravention of Section 65 of the Constitution of Alabama.

18 Section 3. Certain Criminal Provisions Not to Apply
19 to Qualified Persons Engaged in Federally Recognized Bingo or
20 Maritime Gaming.

21 (a) No qualified person conducting federally
22 recognized bingo or maritime gaming shall be subject to
23 criminal prosecution under any provisions of Title 13A,
24 Chapter 12, Article 2, Code of Alabama 1975, and no real or
25 personal property, including, but without limitation thereto,
26 cash, financial assets, and bingo equipment, used or involved
27 in conducting federally recognized bingo or maritime gaming by

1 any qualified person shall be forfeited to the state pursuant
2 to any provision of Title 13A, Chapter 12, Article 2, Code of
3 Alabama 1975.

4 (b) Bingo equipment used by a qualified person
5 engaged in federally recognized bingo shall not constitute, or
6 be deemed to be, a "gambling device" or "slot machine" within
7 the meaning of Section 13A-12-20(5) and (10), Code of Alabama
8 1975.

9 Section 4. Transportation of Certain Gambling
10 Devices Is Exempt from Federal Law.

11 The State of Alabama, acting by and through the
12 enactment of this act, and in accordance with the provisions
13 of 15 U.S.C. §1172, does hereby declare that the
14 transportation into or out of the state of any and all
15 "gambling devices" as defined in 15 U.S.C. §1171 is exempt
16 from the provisions of said §1172 and that such gambling
17 devices may be transported into or out of the state without
18 violating said §1172, or any other applicable federal law, if
19 such gambling devices are used, or are to be used, or have
20 been used (i) by qualified persons to conduct federally
21 recognized bingo or (ii) to conduct maritime gaming.

22 Section 5. The provisions of this act shall be
23 deemed to be severable expressions of the will of the
24 Legislature with respect to the matters respectively addressed
25 in such provisions, and any final adjudication of the
26 constitutional invalidity of any particular provision of this
27 act shall not impair or invalidate any other provisions

1 hereof, it being the express will of the Legislature that no
2 provision of this act be held invalid because of its
3 connection with any other provision of this act, but that the
4 separate and independent objective of the Legislature be
5 recognized with respect to the constitutionality of each
6 provision of this act.

7 Section 6. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law and shall terminate on
10 November 2, 2010, irrespective of whether any constitutional
11 amendment concerning federally recognized bingo or maritime
12 gaming is favorably voted upon by the electorate of this state
13 on November 2, 2010.