



STATE OF SOUTH DAKOTA

DENNIS DAUGAARD, GOVERNOR

2013 AUG 15 AM 9:49

August 12, 2013

National Indian Gaming Commission
1441 L Street NW Suite 9100
Washington, DC 2005

RE: Comments on Proposed Reinterpretation of National Indian Gaming Commission (NIGC) decision on server based Bingo

I object to the National Indian Gaming Commission's proposed reinterpretation of the Commission's previous decisions regarding server based electronic bingo system games for the following reasons:

1. The proposed "reinterpretation" will reverse the NGIC's decisions on server based gaming systems without utilizing the rule making authority and will have the effect of changing the rule without utilizing the rule making and amendment authority required by statutes.
2. The proposed "reinterpretation" will allow "bingo" to be played on a gaming device that requires the patron to only touch the machine one time and will have the effect of making nearly every electronic gaming device a Class III machine.

This may be contrary to the Indian Gaming Regulatory Act (IGRA), specifically 25 USC 2703 7 (B) (i) which states that Class II gaming does not include "electronic or electromechanical facsimiles of any game of chance or slot machine of any kind". (Emphasis added.)

If the NIGC proceeds with its proposed "reinterpretation" of the rules which have been applied for decades, there will be virtually no distinction between Class II and Class III gaming devices. This is contrary to the intention of Congress when the Indian Gaming Regulatory Act was enacted. When Congress enacted IGRA the Members envisioned two distinct types of gaming: bingo and similar games as one type of gaming and slot machines and other casino type games as the other type of gaming. While Congress knew that technology used in both types of gaming would change, the distinction between the two Classes of gaming was a key element in the legislation.

Our research indicates IGRA was a compromise piece of legislation. The agreement was between those who thought tribes should not conduct gaming without state regulation and those who thought tribes should be able to conduct gaming with no state regulation. The result was what we have today, the Class II- Class III system. If a

81513-8

National Indian Gaming Commission
August 12, 2013
Page 2

loophole is developed that permits part of Congress' intention to be circumvented then the purpose behind IGRA is at risk.

Congress has not changed IGRA since it was adopted. A "reinterpretation" of the Federal rules that implement IGRA that would allow "Bingo" to be played with one touch on an electronic gaming machine would create that loophole and thus possibly undermine the integrity of Indian gaming.

Sincerely,



Dennis Daugaard

DD:nn