

107TH CONGRESS
1ST SESSION

H. R. 103

To amend the Indian Gaming Regulatory Act to protect Indian tribes from coerced labor agreements.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2001

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

A BILL

To amend the Indian Gaming Regulatory Act to protect Indian tribes from coerced labor agreements.

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 “Tribal Sovereignty
5 Protection Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) In response to a California Supreme Court
9 decision that overturned Proposition 5, the passage
10 of which in 1998 confirmed gaming rights for Cali-

1 fornia tribes, the United States attorney declared
2 that all tribal gaming in California must cease un-
3 less Tribal-State compacts were signed by October
4 13, 1999.

5 (2) It is estimated that Indian gaming in Cali-
6 fornia directly supports more than 16,000 jobs and
7 indirectly supports another 34,000 jobs in Cali-
8 fornia, while it has reduced welfare payments by
9 \$50,000,000.

10 (3) Faced with the prospect that their most val-
11 uable economic assets would be shut down, 61 Cali-
12 fornia tribes were essentially forced to sign gaming
13 compacts with California Governor Gray Davis.

14 (4) The Governor of California acted in bad
15 faith by conditioning those compacts on the tribes'
16 signing separate labor agreements that could result
17 in the forced intrusion by labor unions on sovereign
18 tribal lands and the unprecedented unionization of
19 Indian casino employees.

20 (5) The United States Constitution recognizes
21 Indian tribes as sovereign governmental entities.

22 (6) Indian tribes have an inherent right to gov-
23 ern themselves consistent with the United States
24 Constitution, treaties, laws, and court decisions.

1 (7) The National Labor Relations Board has
2 held that tribally-owned and operated businesses lo-
3 cated on Indian lands are exempt from the National
4 Labor Relations Act under the Act’s exemption for
5 government entities.

6 (8) The labor agreements forced on the tribes
7 in California establish jurisdiction outside of the Na-
8 tional Labor Relations Board and would instead be
9 enforceable in State court.

10 (9) By signing these labor agreements, Cali-
11 fornia tribes were forced to cede their sovereignty
12 and their constitutional rights to the State of Cali-
13 fornia in order to save their enterprises from being
14 shut down by the United States Department of Jus-
15 tice.

16 (10) The Indian Gaming Regulatory Act was
17 established to “[promote] tribal economic develop-
18 ment” and “for the regulation of gaming by an In-
19 dian tribe adequate to shield it from organized crime
20 . . . and to ensure that the Indian tribe is the pri-
21 mary beneficiary of the gaming operation”.

22 (11) Labor agreements have never been part of
23 Tribal-State compacts outside California and could
24 undermine the stated purposes of the Indian Gaming
25 Regulatory Act.

1 (12) The situation in California is part of a
2 broader attack on tribal sovereignty led by labor-
3 backed interests.

4 (13) The recently-released report of the Na-
5 tional Gambling Impact Study Commission, at the
6 insistence of commission member John Wilhelm,
7 president of the Hotel Employee and Restaurant
8 Employee International Union, recommends that In-
9 dian tribes voluntarily enter into agreements with
10 organized labor that could lead to the unionization
11 of Indian casino employees, and states that if the
12 tribes do not reach such agreements within a “rea-
13 sonable period of time” that “Congress should enact
14 legislation establishing” labor organizing rights, es-
15 sentially forcing the tribes to unionize their casino
16 employees.

17 (14) The decision to allow access to tribal em-
18 ployees and the unionization of tribally owned and
19 operated casinos located on tribal lands should be
20 determined solely by the individual sovereign tribes,
21 not the State or Federal Government.

22 (15) Amending the Indian Gaming Regulatory
23 Act to ensure that Indian tribes cannot be forced to
24 provide access to or otherwise unionize their casino
25 employees as a condition of obtaining a federally ap-

1 proved Tribal-State gaming compact under the In-
2 dian Gaming Regulatory Act would protect the con-
3 stitutional rights of all federally recognized tribes
4 and honor the Federal Government’s treaty obliga-
5 tions to Native Americans, and would ensure that no
6 tribe could be forced into any labor agreement
7 against its will.

8 **SEC. 3. PROHIBITION ON LABOR AGREEMENTS AS PART OF**
9 **TRIBAL-STATE COMPACTS.**

10 Section 11(d)(3) of the Indian Gaming Regulatory
11 Act (25 U.S.C. 2710(d)(3)) is amended by adding at the
12 end the following:

13 “(D) No Tribal-State compact negotiated
14 under subparagraph (A) shall include, or be
15 conditioned by another agreement which in-
16 cludes, any provision relating to labor terms or
17 conditions (including terms or conditions re-
18 lated to free association, organizing, or collec-
19 tive bargaining) for employees of tribally owned
20 businesses located on Indian lands. Any such
21 provision entered into before, on, or after the
22 date of the enactment of this subparagraph
23 shall be null and void. If such a provision is in-
24 cluded in, or otherwise is purported to condition
25 the effectiveness of, a Tribal-State compact,

1 such provision shall be deemed as severed from
2 and not conditioning the effectiveness of the
3 Tribal-State compact which shall remain in
4 force as if such provision had never been exe-
5 cuted.”.

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