

# 23 is Enough!

Stop Casino Expansion in Michigan

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October 27, 2006

Comments on Technical Standards  
National Indian Gaming Commission  
1441 L Street NW  
Washington, DC 20005  
Attn: Michael Gross, Senior Attorney

Mr. Gross:

As chairman of the Michigan-based advocacy organization *23 is Enough*, I am writing on behalf of the hundreds of business, education, non-profit, and elected leaders throughout Michigan who have joined in our efforts to stop the virtually unbridled, unregulated, and unaccountable expansion of casino-style gaming in our state.

I commend the National Indian Gaming Commission's leadership in this pressing issue, and I appreciate the opportunity to assist your decision-making process. In response to the public comment period regarding the proposed reforms to Class II gaming, I would like to submit for the record our strong support for immediate and comprehensive reforms that will close the Class II loopholes, stop further abuse and manipulation of the federal laws, and restore the Indian Gaming Regulatory Act to its original intent.

Specifically, we encourage the NIGC to consider provisions that clearly define and determine which games are Class II devices and which are not, and also provide specific penalties for violating these provisions.

There are countless reasons to be concerned about the unbridled proliferation of tribal gaming, but the loopholes, abuses, and manipulation of the Class II gaming classification are arguably some of the most significant. The NIGC's proposed reforms to the Class II are a promising step in the right direction toward a comprehensive overhaul of Indian gaming laws that are outdated, broken, and being manipulated by special interests.

Lack of clarity in Class II devices is one of the greatest culprits and most widely used vehicles employed by tribes and Las Vegas management companies when seeking to force states to accept a compact. The ambiguity, the well-funded manipulation, and the lack of reforms to Class II have resulted in timely and costly lawsuits, many of which require local and state tax dollars to fund multi-million dollar legal battles to defend a state's right to oppose casino-style gaming.

In 1988, Congress passed the Indian Gaming Regulatory Act (“IGRA”) in an effort to control the development of Native American casinos, and, in particular, to make sure that the States had a meaningful role in the development of any casinos within their borders. At that time, Native American gambling accounted for less than 1% of the nation’s gambling industry, grossing approximately \$100 million in revenue. Since then, the tribal gaming business has exploded into an 18.5 billion dollar industry that controls 25% of the gaming industry’s total revenue. Despite this unprecedented growth, IGRA, Class II classifications and other federal laws that regulate tribal gaming remain virtually unchanged.

Since IGRA was passed nearly twenty years ago, Las Vegas investors and tribal casino interests, with the help of new technologies and teams of lawyers and lobbyists, have been able to exploit federal gaming laws. Most notably, they have manipulated the definition of Class II gaming and the clear objective of IGRA by introducing slot-machines that inappropriately bypass the original intent and definition of Class II bingo-style gaming. When Congress approved the definition of Class II gaming in 1988, a bingo-hall meant a traditional bingo-hall, not a casino-style resort with so-called Class II bingo machines that look like, act like, and sound like Class III slot-machines.

This blurred distinction between Class II and Class III gaming has given an uneven amount of leverage to casino interests and has left many states, including Michigan, tremendously vulnerable. Tribal leaders and their Las Vegas investors have also become brazen in their threats to open casinos with or without state approval, citing the self-proclaimed inevitable Class II fall-back option and warning of “no revenue sharing, no state control” as a means of intimidating states to enter into Class III compacts.

Whether it is a Class II or Class III operation, most tribes will argue that they can proceed with or without a state compact. Local units of government, environmental groups, non-profit social service agencies, public safety officials, educators and countless other individuals and grassroots organizations are effectively helpless and left without any real voice or viable means to influence the federal process to stop unwanted tribal gaming projects. States’ rights, local control and the will of the voters have become essentially meaningless. This certainly was not the intent of IGRA, original Class II regulation, or any other laws governing tribal gaming.

We urge the NIGC to take immediate action to reform Class II regulations to close loopholes, prevent further abuse and manipulation of the definition, and restore the original intent of the law. Thank you for the opportunity to submit public comment. If you have any questions or need additional information, please do not hesitate to contact John Helmholdt at (616) 235-9380 x14 or [helmholdt@scg-gr.com](mailto:helmholdt@scg-gr.com).

Sincerely,



Michael Jandernoa  
Chairman