

**THE NATIONAL CONGRESS OF
AMERICAN INDIANS**

RESOLUTION #SPO-01-061

Title: Indian Gaming Regulatory Act Clarification

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Supreme Court and Congress recognize that Tribal governments retain the inherent authority to conduct gaming operations to generate governmental revenue and strive for economic self-sufficiency; and

WHEREAS, the U.S. Congress enacted the Indian Gaming Regulatory Act to promote Indian economic development and build strong tribal governments by protecting Indian gaming as a means of generating tribal governmental revenues; and

WHEREAS, Congress made clear that Tribes were intended to be able to use technological advances in gaming by employing technologic aids in class II gaming; and

WHEREAS, Congress expressly found that it intends that tribes be given the opportunity to take advantage of modern methods of conducting class II games and the language regarding technology is designed to provide maximum flexibility; and

WHEREAS, tribes and class II manufacturers won significant decisions in the Ninth, Tenth, and D.C. Circuits where the National Indian Gaming Commission and the U.S. Department of Justice challenged tribal gaming commissions' rulings that certain games are class II; and

WHEREAS, the U.S. Department of Justice in the case of Seneca-Cayuga Tribe v. National Indian Gaming Commission has adopted a new position in which it contends that the Johnson Act, 15 U.S.C. § 1171(a)(2) or (3) applies to class II gaming devices, and that Tribes must enter into tribal-states compacts in order to employ such devices.

NOW THEREFORE BE IT FINALLY RESOLVED, that the NCAI does hereby urge the United States Congress to clarify that Johnson Act does not apply to technologic aids to class II gaming, which are governed by the Indian Gaming Regulatory Act.

CERTIFICATION

The foregoing resolution was adopted at the 58th Annual Session of the National Congress of American Indians, held at the Spokane Convention Center, in Spokane, Washington on November 25-30, 2001 with a quorum present.

Tex Hall, President

ATTEST:

Colleen Cawston, Recording Secretary

Adopted by the General Assembly during the 58th Annual Session of the National Congress of American Indians, held at the Spokane Convention Center, in Spokane, Washington on November 25-30, 2001.