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CALIFORNIA TRIBAL  
BUSINESS ALLIANCE  
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TO: Members of the Legislature  
FROM: Robert H. Smith, Chairman  
DATE: August 11, 2009  
RE: Legalization of Internet Card Game Gambling

On behalf of the seven member tribes of the California Tribal Business Alliance, I am writing to express our continued opposition to the legalization of card games played over the internet in California. We are particularly concerned with the concept of moving tribal government gaming off tribal reservations and outside the framework of federal law and tribal-state gaming compacts.

While there is no bill on the subject currently, we expect a proposal to surface shortly that will allow card clubs and California Indian tribes the exclusive right to operate an internet card game gambling web site.

We are equally concerned with serious constitutional questions raised by prohibiting anyone but card clubs and California Indian tribes from operating these virtual casinos, and we believe that this proposal would be a Trojan horse for the wholesale expansion of non-Indian, off-reservation gambling in California.

We remain strongly opposed to this expansion of gambling because no one has had the time to think through the policy consequences of dropping this proposal into the complex web of interacting state and federal law on tribal government gaming.

In 2000, California voters granted Indian tribes the exclusive right to offer casino-style gaming on the understanding that it would only occur on the relatively remote Indian lands. Despite their generally poor locations, many tribes have done well and appreciate their new ability to provide for their members. Even non-gaming tribes benefit from the revenue sharing that is part of the California tribal-state compacts.

However, it is a precarious right because while tribal gaming is governed by federal law, state laws and court decisions can have a determinative impact.

In the case of the proposed internet card game gambling, tribes would have to seek a state charter for an operation that they would not be allowed to do on Indian land without a compact with the state. This is because, under federal law, it would be considered "casino-style" or Class III gaming.



A tribe would have to operate off the reservation lands in a non-sovereign capacity. This would move tribal gaming completely outside the existing legal and regulatory framework approved by California voters in 2000. The distinction of being a tribal government with a compact under federal law would be lost, and this raises serious questions under federal law that must be carefully analyzed.

By limiting the authority to conduct internet card game gambling to card clubs and Indian tribes, this proposed law could well run afoul of equal protection rights guaranteed by the constitution. Why should these two groups be given this exclusive right to operate a virtual casino? There would undoubtedly be lawsuits from many other interests seeking to eliminate the card club/tribal monopoly.

If it is found to be illegal for federally recognized tribes to operate casino-style gaming outside the reservation boundaries and there is a successful lawsuit concerning the violation of equal protection rights, tribes could find themselves in a situation where everyone but a tribe could get into this new internet gaming business.

Card game gambling on the internet would take business away from brick and mortar casinos. Card clubs and casinos provide jobs and tax revenue for the local communities where they are located. Online wagering does not. The potential is there for the same kind of economic undercutting experienced by local retailers when online shopping became popular. This, too, needs to be analyzed.

Once this system is legalized, knowingly or not, a push to expand into other casino-style games will follow, including an inevitable press for virtual slot machines, roulette, and craps.

For these reasons, we believe the legalization of internet card game gambling could start a chain of unforeseen events that will end in the elimination of tribes' ability to benefit from tribal gaming, as granted them by the voters in 2000.

The Legislature should not rush into this ill-conceived proposal.