

AN EDUCATIONAL UPDATE FROM  
THE SOUTHEAST LAW INSTITUTE™, INC.

**To:** SLI Supporters  
**Date:** May 2013  
**From:** A. Eric Johnston  
**Re:** HR 279 (A Letter to Representative Spencer Bachus)

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Dear Spencer:

I am writing you concerning the above legislation. This legislation is known as the “Carcieri Fix.” I believe you are familiar with the facts and law surrounding this situation.

We learned last week that you were a co-sponsor of this bill. I believe you may have already had communications from Dr. Dan Ireland, Dr. Joe Godfrey and others. We are very concerned for the effect this will have to expand gambling in Alabama.

We have worked successfully in the Alabama Legislature since the early 1990’s to stop gambling expansion. We have also worked with former Governor Bob Riley and his task force to stop gambling. We are now working with Attorney General Luther Strange to present a unified effort to stop gambling in Alabama.

I enclose a Southeast Law Institute Educational Update explaining the Indian gambling issue in Alabama. Additionally, I will briefly explain our current concern.

The Indian Gaming Regulatory Act (“IGRA”) allows three classes of gambling. Class II is called “bingo.” Non-Indian gamblers in Alabama have used the simple bingo constitutional amendments in 18 Alabama counties to engage in illegal slot machine gambling, while calling it “bingo.” Indian gamblers have followed this example.

The Alabama Supreme Court’s *Cornerstone* decision essentially defined bingo as paper bingo. Yet, the Secretary of the Interior disingenuously says that any bingo is permitted by IGRA for Indians, including the electronic slot machines.

*Carcieri v. Salazar* ruled that if an Indian tribe was not recognized by 1934, then its lands would not be sovereign. That being so, any activities on those lands would be subject to state law.

Our position is that the Poarch Indians in Alabama, who were not recognized until 1984, are not recognized and the Escambia County and Elmore County operations are illegal under state law. However, if HR 279 passes, this will virtually undo any legal authority we have and the Indians will continue with their unlimited illegal electronic slot machine gambling masquerading as Class II bingo. While we are certainly not concerned with fairness to the non-Indian gamblers, it appears to be hypocritical not to treat Indians and non-Indians alike on such a serious subject.

I was in Washington earlier this week on other business. I tried to get an appointment with you. I felt it was sufficiently important to discuss this with you personally. I was not able to and I do understand scheduling issues. Personally, Jennifer was with me and we would have enjoyed the visit. But, since we were not able to meet, I use this letter as the next best communication.

I recall your leadership to prohibit internet gambling. I recall the very nice luncheon we had at which you were given an award for your actions. I hope your attitude has not changed, but I sincerely and genuinely question the reason why you would sponsor HR 279. This is an extremely serious situation for Alabama.

If the Carcieri Fix becomes law, the Indians will continue with their unlimited gambling. You may also be aware that the Escambia County Commission is concerned with lost tax revenues. While the Indians are generating millions of dollars in gambling revenues, they are also expanding profitable legitimate business enterprises. This is unfair to Escambia County governmental functions, as well as unfair competition to non-Indians merchants. There is the possibility the Poarch Indians would expand to other parts of the state.

As you can see, there needs to be comity between federal and state law on this issue. The Alabama Constitution prohibits this gambling. It has been an important part to the family values that make Alabama such a wonderful state.

After you have had a chance to review this, please let me hear from you. In advance, thank you for your assistance with this.

Yours very truly,  
A. Eric Johnston

\*This letter was written on March 21, 2013 and I have had no response. It was copied to Attorney General Luther Strange, Deputy Attorney General H. Sonny Reagan, State Senator Bryan Taylor, Dr. Dan Ireland and Dr. Joe Godfrey, all of whom have a vital role in stopping Indian gambling in Alabama.

This statement is for educational purposes only. It is not intended to provide legal assistance. We hope if you have questions or know of those who do, you will contact us and we can assist through referral to one of our cooperating attorneys. ©2013, Southeast Law Institute.