

SOUTHEAST LAW INSTITUTE™

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Dear Friends and Supporters,

As the regular session of the Alabama Legislature for 2004 draws to a close, we realize how weary we are of contention, duplicity, and efforts to make bad laws. While the legislative process is necessary, it is a very difficult and frustrating process. However, the objectives are worthwhile and there are many good men and women serving in the legislature.

As we earlier noted, the leadership of the Senate and House makes it very difficult to pass protections for human life, religious freedom, and particularly this year, the sanctity of marriage. At the same time, significant amounts of time are spent analyzing and defending against destructive legislation, such as the annual bane of the legislature - gambling. This month's Educational Update deals with an analysis we provided on the bill known as "Bingo for Books".

At the same time, we worked on a number of other issues and hope to give you a full report on what happened during the legislative session in next month's Educational Update. The legislative session will end May 17, 2004.

On April 16, we presented a talk at the annual Eagle Forum Conference on "Presentation of the Christian World View in Public Schools". We are always glad of opportunities to provide educational information. If we know our rights, we can expect protection of our rights. If we do not know our rights, how do we know when they are being taken away? For SLI, the first step is education and the second step is protection of guaranteed fundamental constitutional rights.

We are also pleased when we can not only educate in principle on rights, but when we are called upon to protect those rights. We have had a number of inquiries from churches, Christian schools and homeschoolers over the recent weeks on a number of issues. We are glad to report all of the issues could be resolved with advice and cooperation.

Your continuing contributions make this work possible. Please do not forget our work throughout the summer. We have some important projects coming up which will take a great deal of time and effort. This takes away from our ability to otherwise produce income in our private law practices. We are grateful for the several gifts we received for the Women's Right to Know effort. We still request special contributions for that. God Bless You.

Sincerely,

A. Eric Johnston
General Counsel

AEJ/mc

The Southeast Law Institute, Inc.™ is a 501(c)(3) organization providing legal counsel on constitutional and public policy issues.

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

To: SLI Supporters
Date: May 2004
From: A. Eric Johnston
Re: "Bingo for Books"

HB 147 and SB 381 are legislative bills proposing to amend the Alabama Constitution to allow gambling. Public hearings were held and the Southeast Law Institute provided testimony and written analysis of the legislation. The following is a summary of part of that analysis.

Every year Alabama is treated to the opportunity to consider whether to legalize gambling. It comes in many forms and with many faces. More often than not, the proposed legislation is not straight forward gambling, but attempts to hide its real meaning. This year, the gamblers used the idea of a state financial crisis, particularly in the area of public education, as a reason for legalizing gambling. The legislation started out as a method of buying books for public school children. It came to be known as "Bingo for Books".

The Face of the Bill

The bill proposes bingo games pay ten percent of net revenues to the state to purchase public school books. An additional four percent is paid to local authorities as a license tax. The remaining eighty-six percent goes to the gamblers who operate the four existing gambling race tracks in Alabama. The bill is sold as nothing more than "bingo". After all, Alabama has many charitable bingo constitutional provisions for communities around the state. Therefore, why would citizens object to having bingo on a grander scale with such benefits?

The Reality of the Bill

The profit of eighty-six percent goes to the four track monopoly. The state would receive relatively little income, while accurate estimates suggests the gamblers will receive as much as \$175 million a year from each track. A very nice business if you can stand the guilt.

The reality is that this bill does not provide for "bingo". It provides unlimited gambling. In the approximately twenty-eight pages of the bill, at different places, a clear strategy emerges to create unlimited casino gambling at the four tracks. No definition of "bingo" or "bingo equipment" is given. This is not the typical bingo using a selection of numbers and putting markers on cardboard squares. This is electronic gambling exempted from any law, both now and in the future, which would restrict it.

Sections 3(b) and 9 expand the possibilities of this gambling by stating that existing constitutional amendments authorizing charitable bingo have nothing to do with the games to be authorized by this bill. It is common for courts to use existing laws to determine the legal meaning of new laws. However, if you cannot define "bingo" by the extant body of law, then you must define the activity within the terms of the bill itself. The bill gives no definition, but in Section 7 leaves it up to the "racing operator", the operator of the track, to tell the "racing commission" (the so-called governmental authority), what type of gambling he wants.

Section 2 states the "bingo equipment" shall not be considered a "gambling device" or "slot machine" as defined by Alabama criminal law. In other words, every existing definition of unlawful gambling equipment is excluded by the bill.

The most significant gambling expansion proposed by the bill is in Section 3 (a) which says that Section 65 of the Alabama Constitution will not apply to this gambling. Section 65 is the law which prohibits "games of chance". Any existing court opinion which might limit the nature of gambling is specifically overruled by the language of this bill. Furthermore, if the bill becomes law, no future court opinion could restrict it.

Section 11 of the bill caps off this protection of unlimited gambling by stating the legislature can pass no other law to limit what the racing operator proposes. In other words, if this bill becomes law, it becomes a law unto itself.

Conclusion

The "Bingo for Books" legislation is a constitutional amendment. If it passes the House and Senate, it does not go the governor, who would veto the legislation if he had the opportunity. It goes to the people for a vote, and, if passed, becomes the highest law in the land for Alabama on the subject of gambling. The only legal conclusion which can be drawn is that no law of any description will govern what gambling means. The bill has absolutely nothing to do with bingo, but everything to do with casino gambling.

This statement is for educational purposes only. It is not intended to provide legal advice. 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.