

Class II Gaming



Overview

Tribal government gaming is regulated by a combination of federal, state and tribal authorities, depending on the type of gaming conducted. This regulatory scheme is outlined in a federal law known as the Indian Gaming Regulatory Act, 25 U.S.C §2701 et seq. IGRA divides gaming into three classes, Class I, Class II and Class III, and provides a general framework for the regulation of tribal gaming.

Differences Between Class I, Class II And Class III Gaming

Class I gaming includes social games and traditional/ceremonial games. An Indian tribe can offer Class I games without restriction.

Class II gaming includes bingo and non-banked card games. Tribes do not need to enter into any agreements at the state level to conduct Class II gaming under IGRA. Instead, tribal governments are responsible for regulating Class II gaming with NIGC oversight.

Class III gambling includes all other forms of gambling, including casino-style gambling. An Indian tribe can operate Class III games only if the tribe and the state have agreed to a tribal-state gaming compact. After the state and tribe have reached an agreement, the federal government must approve the compact before it is valid.

The National Indian Gaming Commission Office of General Counsel reviews games on request by a tribe or a game developer and issues advisory opinions on whether they are Class II or Class III.

An Indian tribe can offer Class II games if the games are generally legal in the state where the tribe is located and adopt a gaming ordinance approved by the National Indian Gaming Commission. Four U.S. states are limited to Class II gaming only: Alabama, Alaska, Nebraska and Texas.

Class II Regulation

At the federal level, tribes may retain their authority to conduct, license, and regulate Class II gaming so long as the tribal government adopts a gaming ordinance approved by the NIGC. Under IGRA, the tribal gaming ordinance must provide for annual outside audits of the gaming, to be provided by the Indian tribe to the NIGC. All contracts for supplies, services, or concessions for a contract amount greater than \$25,000 relating to gaming must also be subject to independent audits.

In addition, there must be an adequate system which ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise. The tribe must notify the NIGC of the results of background checks before the tribe may issue any licenses.

Net revenues from Class II tribal gaming must be used by tribal governments: to fund tribal government operations or programs; to provide for the general welfare of the Indian tribe and its members; to promote tribal economic development; to donate to charitable organizations; or to help fund operations of local government agencies.