

Aroostook Band of Micmacs' Proposed Amendment to LD 554

Sponsored by Senator Luchini

For WS 5/26/21

An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30 MRSA §6206, sub-§4 is enacted to read:

4. Gaming. Pursuant to United States Public Law 96-420, Section 6(e), the State and the Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians, and solely for this provision and pursuant to United States Public Law 102-171, Sections 6 (b) and (d), the State and the Aroostook Band of Micmacs, hereby agree and establish that, with respect to the conduct of gaming activities by the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians and Aroostook Band of Micmacs within their respective Indian territory or trust land, the government responsibility and jurisdiction of the State and the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians and Aroostook Band of Micmacs are governed by the federal Indian Gaming Regulatory Act, Public Law 100-497, 25 United States Code, Section 2701 et seq and its implementing regulations. Any law of this State that is contrary to this subsection or to any provision of the Indian Gaming Regulatory Act or its implementing regulations, or that would be affected or preempted by the Act or those regulations, does not apply to the conduct of gaming activities by the Passamaquoddy Tribe, Penobscot Nation, and Houlton Band of Maliseet Indians and Aroostook Band of Micmacs their respective Indian territory or trust land.

A. Upon the request of the Passamaquoddy Tribe, Penobscot Nation, or Houlton Band of Maliseet Indians or Aroostook Band of Micmacs, the Governor shall negotiate in good faith and execute on behalf of the State a tribal-state compact or compacts, and any amendments or modifications to the compact or compacts, with the Passamaquoddy Tribe, Penobscot Nation, or Houlton Band of Maliseet Indians or Aroostook Band of Micmacs governing class III gaming on their respective Indian territory or trust land under the Indian Gaming Regulatory Act and its implementing regulations. The Indian Gaming Regulatory Act, and its implementing regulations, govern the process by which a tribal-state compact is negotiated and executed pursuant to this subsection and the process by which the tribal-state compact takes effect.

B. Except as otherwise provided in a tribal-state compact negotiated under paragraph A, as otherwise provided in a written agreement between the Passamaquoddy Tribe, Penobscot Nation, or Houlton Band of Maliseet Indians or Aroostook Band of Micmacs and the State or any political subdivision of the State or as otherwise provided in this paragraph, the laws of this State do not apply to the gaming operations of the Passamaquoddy Tribe, Penobscot Nation and Houlton Band of Maliseet Indians, and Houlton Band of Maliseet Indians and Aroostook Band of Micmacs.

(i) The tribe's, nation's or band's laws or ordinances relating to health and safety applicable to the tribe's, nation's or band's gaming operations, including laws regarding food safety, sanitation, building construction standards and inspections, fire safety and environmental protection, may not be less rigorous than the corresponding laws of this State relating to public facilities;

(ii) If no tribal, nation or band law or ordinance exists with respect to a health and safety matter related to the tribe's, nation's or band's gaming operations, the laws of this State apply until such time as the tribe, nation or band enacts a law governing the matter;

(iii) The laws of this State regulating the sale, distribution and taxation of alcohol apply to the gaming operations of the tribe, nation or band, provided that each tribe, nation or band shall be entitled to a liquor license or licenses appropriate and corresponding to the nature and extent of their gaming operations. For purposes of this paragraph, approval by the governing body of the respective tribe, nation or band shall constitute all local approvals required under M.R.S. Title 28-A.

C. The State and its political subdivisions may not impose any tax on the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians, Aroostook Band of Micmacs, their respective tribal members or tribal entities in connection with the tribe's, nation's, or band's gaming operations. A tribal-state compact negotiated under subsection A may include provisions whereby a tribe, nation, or band shares a portion of its revenues generated from class III gaming activities in exchange for quantifiable economic benefits that the State is not otherwise required to negotiate or provide pursuant to the Indian Gaming Regulatory Act.

D. For purposes of this subsection, the following terms have the following meanings.

- (i) "Class III gaming" has the same meaning as in 25 United States Code, Section 2703(8), as amended.
- (ii) "Gaming operations" means the conduct of class I, class II, and class III gaming activities as defined in 25 United States Code, Section 2703, as amended, the provision of related and complementary services, businesses and amenities to gaming facility patrons and the siting, planning, construction and operation of the gaming facility.
- (iii) "Gaming facility" means, on the respective Indian territory or trust land of the Passamaquoddy Tribe, Penobscot Nation, ~~and~~ Houlton Band of Maliseet Indians ~~and~~ Aroostook Band of Micmacs, a facility in which class I, class II, or class III gaming activity is conducted, and those contiguous areas where gaming-related and other complementary services, businesses and amenities are provided;
- (iv) "Tribal member" means a member of the Passamaquoddy Tribe, the Penobscot Nation, ~~or~~ Houlton Band of Maliseet Indians ~~or~~ Aroostook Band of Micmacs;
- (iii) "Tribal entity" means an entity, including but not limited to a corporation, partnership or other enterprise, that is owned by the Passamaquoddy Tribe, the Penobscot Nation, ~~or~~ the Houlton Band of Maliseet Indians ~~or~~ the Aroostook Band of Micmacs or the tribe's, nation's, or band's members, when more than 50% of ownership interests are held by any combination of the tribe, nation or band and the tribe's, nation's or band's members. For the purposes of this subparagraph, "member" includes a married couple, at least one of whom is a tribal member.

Sec. 2. Contingent effective date. This Act takes effect 120 days after adjournment of the First Special Session of the 130th Legislature only if, within 90 days after the adjournment of the First Special Session of the 130th Legislature, the Secretary of State receives written certification from the

Joint Tribal Council of the Passamaquoddy Tribe, the Chief and Tribal Council of the Penobscot Nation, and the Houlton Band Council of the Houlton Band of Maliseet Indians that the Tribe, Nation and Band have agreed to the provisions of this Act pursuant to section 6(e) of the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, or the Secretary of State receives written certification from the Tribal Council of the Aroostook Band of Micmacs that the Band has agreed to the provisions of this Act pursuant to section 6(d) of the federal Aroostook Band of Micmacs Settlement Act of 1991, Public Law 102-71, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes. Upon such written certification by the Houlton Band Council of the Houlton Band of Maliseet Indians, this Act constitutes a jurisdictional agreement for purposes of Public Law 96-420, section 6(e)(2), and upon such written certification by the Tribal Council of the Aroostook Band of Micmacs, this Act constitutes a jurisdictional agreement, solely with respect to the gaming activities described in this Act, for purposes of Public Law 102-71, section 6(d).