
General Background Gambling in California

California's state law does not specifically make gambling legal or illegal: rather, it makes certain forms of gambling illegal. Much of the basic framework of gaming in California has been enacted by the people through constitutional amendments rather than by the Legislature. The State Lottery was enacted through a constitutional amendment as was horse racing, Indian gaming and charitable gaming. The Constitution specifically prohibits Nevada and New Jersey-type casino gaming on non-tribal lands.

Tribal casinos began to proliferate after an amendment to the state constitution in 2000. Card rooms began operation before then and have since seen moratoriums on expansion. California authorizes pari-mutuel, Internet and phone wagering and exchange wagering on horse racing, although exchange wagering is not yet operational.

With a population larger than Canada, California not only accounts for the largest single economy in the United States but is also one of the largest gaming markets in the world. Traditionally, California served as a major feeder market for Nevada's casinos, but over the past 20 years, California has become one of the nation's largest gaming jurisdictions with Las Vegas inspired tribal casinos.

Under current law, state regulation of gambling, with the exception of activities regulated by the California Horse Racing Board (CHRB) and the State Lottery, is the responsibility of the California Gambling Control Commission (CGCC) and the Bureau of Gambling Control within the Department of Justice (Bureau).

CGCC is responsible for setting policy, establishing regulations, making determinations of suitability for gaming employees and other individuals and entities, issuing licenses, acting as the administrator of gaming revenues deposited into the Indian Gaming Special Distribution Fund (SDF) and the trustee over the revenues deposited into the Indian Gaming Revenue Sharing Trust Fund (RSTF), and administering the provisions of the Gambling Control Act and the Tribal-State Gaming Compacts.

The Bureau is the State law enforcement authority with special jurisdiction over gambling activities within the State of California. The Bureau is also the entity that receives applications and fees and conducts criminal background investigations and audits. In addition, the Bureau has regulatory authority over charitable gaming.

Local governments approve card rooms in their jurisdiction, as well as establish the hours of operation, table size and number, and wagering limits. The regulatory activities of these agencies are mostly funded by licensing and penalty fees collected from gaming establishments.

The general framework for the compacts call for a tribal-state supervision and a certification process, in which tribal gaming agencies, hired by the tribe itself, take the responsibility for day-to-day casino supervision while state authorities perform oversight of casino operations, including certification of licenses.

The CHRB oversees pari-mutuel wagering on horse racing in the state. The CHRB promulgates rules governing, permitting, and regulating pari-mutuel wagering on horse races.

The California State Lottery Commission governs the California State Lottery. The commission is made up of five members and a director, appointed by the governor.

Sports wagering and Internet gambling, except Advance Deposit Wagering via the Internet or phone on horse racing, are prohibited in California.

Card Rooms

Card clubs are one of California's oldest forms of legal gambling. In 2014, only 89 commercial card rooms were licensed to operate more than 1,800 tables in California (excluding tables operated on Indian land) compared to 150 in 1999. A small percentage are large in scale, the remainder are smaller operations scattered throughout the State.

Historically, local governments regulated card clubs. Beginning in the mid-1980s the State gradually increased its regulatory oversight. The stated primary purpose of this increased oversight in California was to provide a structured regulatory scheme while attempting to prevent criminal activity from being associated with these businesses.

In 1984, the Legislature enacted the Gaming Registration Act, which required the Attorney General's office to provide uniform, minimum regulation of California card rooms. However, the scope of the Attorney General's authority was extremely limited and funding was inadequate. Recognizing the need for broader oversight of California's gambling industry, the Legislature enacted the Gambling Control Act in 1998.

The Gambling Control Act created a comprehensive scheme for statewide regulation of legal gambling under a bifurcated system of administration involving the California Department of Justice's Bureau of Gambling Control within the Attorney General's Office and the five-member CGCC appointed by the governor. Since 2012, the operating procedures for California's two gambling regulatory agencies have been undergoing a reorganization as directed by the Governor's Reorganization Plan No. 2 which consolidated the support, investigatory, auditing, and compliance functions of CGCC and transferred these responsibilities to the Bureau. CGCC retained jurisdiction over the licensing, policies, regulations, criteria, and standards pertaining to gaming.

Local governments also regulate California card clubs. At the local level, gaming interests must secure a gaming ordinance. The Bureau and CGCC must then approve the ordinance. Local ordinances must be approved by the host jurisdiction. This exposes the newly proposed or proposed expansion of card clubs to a vote and or referendum by the electorate of the community.

The State of California currently has a moratorium until 2023 on the issuance of "new" card club licenses, which for now regulates the present growth of this industry. With a few minor exceptions, the moratorium, which was enacted in 1995, has limited the ability of local governments to amend their gaming ordinances. The Legislature has extended the moratorium several times over the past 20 years, most recently in 2018.

State law requires that every owner, lessee or employee of a gambling establishment obtain and, thereafter, maintain a valid state gambling license. The Bureau investigates the qualifications of individuals who apply for state gambling licenses to determine whether they are suitable and to ensure that gambling is conducted honestly, competitively and free from criminal and corruptive elements.

An owner of a gambling establishment must apply for and obtain a valid state gambling license. The Bureau's Licensing staff will conduct in-depth background investigations on applicants to determine whether they are suitable to hold a state gambling license. Suitability is determined by a number of factors including but not limited to the applicant's honesty, integrity, general character, reputation, habits, and financial and criminal history.

The owner of a state-licensed gambling establishment who wishes to operate additional tables on a temporary or permanent basis must submit a request to operate additional tables to the CGCC. The number of tables requested cannot exceed the total number of tables authorized under local and state law for the gambling establishment.

The state allows card rooms to conduct certain "non-banked" card games. These are games where the card room operator has no stake in the outcome of the game. The players play against each other and pay the card room a fee for the use of the facilities.

All controlled games (pai-gow, poker, etc.) and gaming activities (jackpots, bonuses, tournaments, etc.) must be approved by the Bureau and must comply with local gaming ordinances prior to their play at a licensed gambling establishment within California.

It has been reported that card club operations directly and indirectly support more than 22,000 jobs in California. In addition, some California card clubs generate over one-fourth of the total tax revenue for the municipal general funds in their home cities.

State Lottery

The California State Lottery was created by a ballot measure, Proposition 37, which was approved by 58 percent of voters on Nov. 6, 1984. The Lottery Act gave the Lottery a clear mission to provide supplemental funding to California public education on all levels from kindergarten through higher education, plus several specialized schools.

The Act specifies that the lottery shall be operated and administered by a commission appointed by the Governor. The Legislature has the authority to amend the Lottery Act by a two-thirds majority, if by doing so, it furthers the purposes of the measure.

On April 8, 2010, the Legislature amended the Lottery Act with Assembly Bill 142. The bill required the Lottery to return at least 87 percent of revenues to the public in the form of prizes and contributions to education, and established a cap of 13 percent of revenues as the amount the Lottery may spend on operating expenses. Prior to AB 142, the Lottery was required to return, 50 percent of revenues to the public in the form of prizes; at least 34 percent to public education; and allocate no more than 16 percent to administrative costs. The bill required the State Controller to review the amount of revenue that was allocated to public education at the end of each year for five years. If the total amount of revenue to public education fell short of the amount allocated in the last full fiscal year prior to the enactment of the bill, the bill included a provision that would have repealed the change. Such a drop never happened, the change in allocation resulted in more money being allocated to education.

On March 1, 2005, the California Lottery Commission executed an agreement with other states' lottery commissions to participate in the "Mega-Millions". On June 22, 2005, the California Lottery began selling Mega-Millions tickets. On April 8, 2013, the Lottery began selling Power Ball tickets. Super Lotto's revenue distribution formula was used for Mega-Millions and Power Ball, as well.

The Lottery operates the California State Lottery Fund, an enterprise fund that, like a private business, utilizes the full accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America. Internal Audit personnel provide a continuing review of the internal controls and operations of the California Lottery.

Budgetary control for the Lottery is addressed through its enabling legislation, which provides specific limitations on operating and administrative expenses. A comprehensive annual budget is prepared in conjunction with the Lottery's Annual Business Plan.

An internal control structure has been designed to ensure that assets are protected from loss, theft, or misuse, and to ensure that the accounting system allows compilation of accurate and timely financial information.

Horse Racing

Horse racing has been taking place in California since the 1800s, but horse racing as we now know it – under the pari-mutuel wagering system – was not made possible until the electorate passed a constitutional amendment in 1933. The expressed intent of the Horse Racing Law is to allow pari-mutuel wagering on horse races. Pari-mutuel, from the French Pari-Mutuel or mutual betting, is a betting system in which all bets of a particular type are placed together in a pool, and payoff odds are calculated by sharing the pool among all winning bets. Pari-mutuel betting differs from fixed-odds betting in that the final payout is not determined until the pool is closed – in fixed-odds betting, the payout is agreed at the time the bet is sold.

Horse Racing Law also assures protection of the public, encourage agriculture and the breeding of horses in the state, provide uniformity of regulation for each type of horse racing, and provide for maximum expansion of horse racing opportunities in the public interest. To accomplish these objectives, the constitutional amendment created the California Horse Racing Board (CHRB).

The mission of the CHRB is to ensure the integrity, viability, and safety of the California horse racing industry by regulating pari-mutuel wagering for the protection of the public, promoting horse racing, breeding, and wagering opportunities, and fostering safe racing through the development and enforcement of track safety standards and regulations for the health and welfare of all participants.

The principal functions of the CHRB are to adopt rules and regulations to protect the public and ensure the safety of human and equine athletes; license racing associations and racing-industry participants; allocate race days to racing associations and fairs; encourage innovative expansion of wagering opportunities; monitor and audit pari-mutuel handle and takeout; assess racing surfaces and implement safety standards; enforce laws, rules and regulations pertaining to horse racing; act as a quasi-judicial body in matters pertaining to horse racing; and collect the state's lawful share of revenue derived from horse racing meets.

The CHRB is a seven-member commission appointed by the Governor. It directs a statewide staff in the licensure and oversight of all race meets in the state where pari-mutuel wagering is conducted, as well as off-site simulcast wagering locations and advance deposit wagering companies. According to the 48th Annual Report of the CHRB, "Racing commissioners met 17 times in 2018 for public Board and Committee meetings. Noticed meetings are open to the public and include a published agenda."

The CHRB is a department of the Business, Consumer Services, and Housing Agency, and it appoints an executive director to carry out its objectives. The executive director is responsible for providing public notice of committee meetings in accordance with the Bagley-Keene Open Meeting Act. To assist with day-to-day oversight, the CHRB contracts with stewards and veterinarians for on-track activities, and with the University of California, Davis, for drug testing and safety-related services. The horse racing industry operates seven days a week, 365 days a year. Even when there is no live racing, the stable areas and training facilities remain active.

Tribal Gaming

Before 2000, The California Constitution prohibited Class III gaming. In 2000, California voters approved Proposition 1A which had been proposed by the Governor and passed by the Legislature. Proposition 1A amended the California Constitution to permit the State to negotiate compacts with federally recognized Indian tribes for certain Class III gaming activities (slot machines, video poker and instant lottery devices, banking and percentage card games, and devices and games authorized under state law to the California Lottery). Because non-Indian interests are still forbidden from operating gaming facilities, Proposition 1A granted Indian tribes a "constitutionally protected monopoly on most types of Class III games in California."

Since the enactment of Prop 1A, the State of California has signed and ratified compacts with approximately 74 Tribes. There is Federal Secretarial Procedure in effect with one Tribe. There are currently 63 casinos operated by 61 Tribes. Tribes are able to offer house-banked card games, where players wager money against the gaming establishment, which has a stake in the game. In California, these games can only be played in Indian casinos authorized by a tribal-state gaming compact.

Congress established the legal basis for Tribes to conduct gaming when it passed the Indian Gaming Regulatory Act in 1988 (IGRA). IGRA defines gambling under three classes:

- Class I gambling includes social games and traditional/ceremonial games. An Indian tribe can offer Class I games without restriction.
- Class II gambling includes bingo and certain card games. Class II gambling, however, specifically excludes all banked card games. An Indian tribe can offer only the Class II games that are permitted elsewhere in the state.
- Class III gambling includes all other forms of gambling such as banked card games (including twenty-one and baccarat), virtually all video or electronic games, slot machines, pari-mutuel horse race wagering, and most forms of lotteries. Class III gaming may only be conducted under terms of a compact negotiated between an Indian tribe and a State.

The purpose of IGRA was to provide a statutory basis for the operation of gaming by Indian tribes. IGRA makes Class III gaming activities lawful on the lands of federally recognized Indian tribes only if such activities are: (1) authorized by a tribal ordinance, (2) located in a state that permits such gaming for any purpose by any person, organization or entity, and (3) conducted in conformity with a gaming compact entered into between the Indian tribe and the state and approved by the Secretary of the Interior.

Tribal gaming is regulated on three separate and distinct levels, in contrast to the single level of commercial gaming. The first level of regulation comes from the tribes themselves. With the establishment of IGRA, tribes are mandated to establish a regulatory body (tribal regulators and commissions) to keep operations in compliance with adopted tribal ordinances and state compacts. The second level is the state gaming department. The state regulates the areas that have been negotiated with a tribe in the tribal-state compact. The third level is the National Indian Gaming Commission (NIGC), which became operable in February 1993 to oversee the regulation of Indian gaming. Other oversight entities include the federal government, the Department of Justice, FBI, and Bureau of Indian Affairs.

IGRA requires that all revenues from tribal gaming operations be used solely for governmental or charitable purposes. Much like state governments determine the use of lottery revenues, tribal governments determine how gaming proceeds are to be spent.

Under IGRA, states are only allowed to get compensation for costs related to tribal gambling, such as regulation and gambling addiction, and to offset the effects of casinos on neighboring communities. As

sovereign nations, tribes are largely exempt from state taxes and laws, including California environmental and workplace laws.

The Bureau, CGCC, and California Tribal Gaming Agencies (TGA) work together to ensure the fair and honest operation of tribal gaming in California in accordance with IGRA. Compacts between California Indian Tribes and the governor establish a state certification process whereby all gaming resource suppliers, financial sources and key employees that are issued gaming licenses by the various TGAs in California are required to submit a finding of suitability application with CGCC.

In 1999, the California legislature ratified 61 compacts with Indian tribes, all based on a model compact negotiated by the State and tribes. The 1999 compacts, which are set to expire in 2020, ostensibly limited the number of devices to 2,000 per tribe and specified that non-gaming tribes, and tribes operating fewer than 350 gaming devices, receive \$1.1 million annually from a Revenue Sharing Trust Fund (“RSTF”) administered by the CGCC. The RSTF is funded by payments from tribes operating more than 350 machines (or the number of machines in operation on September 1, 1999, whichever is greater).

In addition to the RSTF, the 1999 compacts provide for reimbursement to the State for the costs of regulating Indian gaming and for payments to the Special Distribution Fund (“SDF”). The SDF funds are to be used for (a) programs designed to address gambling addiction, (b) payments to state and local government agencies impacted by tribal government gaming, (c) regulatory costs related to the compacts, (d) payment of shortfalls in the RSTF, and (e) “any other purposes specified by the Legislature.” The SDF has been consistently used to cover shortfalls in the RSTF.

In addition, in 2012, the Tribal Nation Grant Fund (TNGF) was created in the Graton Rancheria Compact in 2012 and included in subsequent compacts. The TNGF was seen as a new destination for gaming revenues for distribution of funds to non-gaming and limited gaming tribes upon application of such tribes for purposes related to effective self-governance, self-determined community, and economic development. The TNGF is designed to be fluid and payments are intended to be made to eligible tribes on a “need” basis. In 2018, AB 880 (Gray, Chapter 801, Statutes of 2018) was signed by Governor Brown, which created the framework for funds in the TNGF to be distributed.

Charitable Gaming

California offers charitable gambling opportunities for nonprofits. Both raffles and bingo games are regulated by the State and local jurisdictions.

In 1976, the voters approved Proposition 9 and the game of Bingo became a legal game offered by charities to enhance fundraising activities to provide funds to the needy they serviced. Certain limitations were included as a safeguard, a pot limit of \$250 was set and the games could only be staffed by members of the nonprofit organization. Charity organizations offered a chance for a small compensation to win a prize. Thus, the parlor game of bingo became gambling.

In 2008, legislation was chaptered which authorized remote caller bingo games. Remote caller bingo is a game of bingo in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted. The organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations. The locations must be owned, leased, or rented by the organization, or the use of which has been donated to the organization.

The State of California also allows eligible nonprofit organizations to hold “charity poker night” fundraisers. Qualified nonprofit organizations and suppliers of equipment and/or services for such fundraising events must submit an Annual Registration Form to the Bureau of Gambling Control for prior approval. For nonprofit organizations, the Nonprofit Organization Annual Registration Form serves two purposes: it registers the nonprofit organization for the calendar year so that the organization is eligible to apply for approval for a fundraising event; and it includes a section to register the event itself. Each nonprofit organization may hold only one gambling fundraiser per calendar year.

In California, charities and certain other private nonprofit organizations may conduct raffles to raise funds for beneficial charitable purposes in the State. In 2000, Proposition 17 amended the State Constitution to allow private nonprofit groups to conduct raffles under certain conditions. To qualify, at least 90 percent of the gross receipts from the raffle must go directly to charitable purposes in California. The percentage can be changed with a two-thirds vote of the Legislature and approval by the Governor.

In 2015, SB 549 (Hall, Chapter 509, Statutes of 2015) authorized nonprofit organizations established by professional sports leagues to conduct 50/50 raffles. In these types of raffles 50 percent of the money goes to the charity and 50 percent of the money goes to the winner of the raffle. Even though a smaller percentage is going to the charity, supporters of 50/50 raffles argue that the overall amount is greater, since individuals are more inclined to participate; which in turn increases the overall total of funds going to charity.