

# **TRIBAL GAMING IN ARIZONA**

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# OVERVIEW

- History of Indian Gaming in Arizona
  - Compacts prior to amendment
  - Changes in 2021: Modernization
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# THE BEGINNING...

NY TIMES – MAY 13, 1992:  
F.B.I. AGENTS RAID CASINOS ON 5 INDIAN RESERVATIONS

NY TIMES – MAY 17, 1992:  
RAID ON INDIAN CASINO INFLAMES ISSUE OF SELF-RULE

## Historical context

- Culture of the state
- Gaming as part of tribal culture
- Establishment of the Indian Gaming Regulatory Act and associated regulations



# HISTORY OF INDIAN GAMING IN ARIZONA

- After the 10 day cooling off period initiated by Governor Symington, the Governor and legislature worked to resolve the problem
  - The result: on July 1, 1992, the A.R.S. 5-601 was signed by the Governor and became immediately effective (which required bipartisan efforts).
  - It established the ability of the Governor to enter into compacts with Arizona tribal nations to lawfully conduct tribal gaming.
    - Delegated authority to the Arizona Department of Racing (the precursor to the Department of Gaming) to manage and oversee compacts.
  - 1992 -1994, First compacts were entered in Arizona with 16 of the 23 tribes.
  - In 1994, A.R.S. 5-601 was amended to again authorize the Governor to negotiate a compact with the tribes but also placing some limits on the Governor's authority.
  - In 1995, the Legislature again amended A.R.S. 5-601 to fully establish the Department of Gaming.
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# HISTORY OF INDIAN GAMING IN ARIZONA

- In 1996, Proposition 201, proposing amendment to Title 5, Chapter 6, Article 1, by addition of § 5-601.01, relating to tribal-state gaming contracts, was approved by the electors. (later repealed by subsequent initiative)
  - In 1997, after extended litigation the Arizona Supreme Court issued Salt River Pima Maricopa Indian Community v. Hull, 190 Ariz. 97, determining that the initiative did not violate Arizona's Constitution.
  - In 1998, the Arizona Supreme Court decided Sears v. Hull, 192 Ariz. 65, which stemmed from a claim by citizens claiming that the federal Indian Gaming Regulatory Act (IGRA) prohibited the Governor from entering any gaming compact that permitted slot machine or keno gambling. The case was dismissed on standing issues.
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# HISTORY OF INDIAN GAMING IN ARIZONA

- 2000-2001:
  - American Greyhound Racing Inc. v. Hull, 305 F.3d 1015 (2002)
- In 2002, there were three gaming related propositions on the ballot for voters to approve.
  - The first was Prop 200, called the “Tribal-State Gaming Compact, Collee Scholarship and Elderly Care Act of 2002.” This proposition was overwhelmingly defeated on November 5, 2002.
  - The second was Prop 201 was called the “Fair Gaming Act.” Its purpose was to “ensure similar regulation and supervision of tribal and racing permittee gaming devices” (Prop 201, Section 2 (2)). This proposition was also overwhelmingly voted down by the voters on November 5, 2002.
  - Prop 202 was called the “Indian Gaming Preservation and Self-Reliance Act” and its purpose was to address legal roadblocks that precluded Governor Hull from executing the new compact framework that she had negotiated with the tribes. This was overwhelmingly approved by voters and is the framework for the compacts that are in effect today.





# HISTORY OF INDIAN GAMING IN ARIZONA

- 2002-2021:
  - Compacts remained in existence
  - Terms of 20 years – expirations beginning in 2023
  - Provided for exclusivity for gambling to tribes with some exceptions



# **2002 COMPACTS**

**BEFORE AMENDMENT**



# INTRODUCTION - TERMINOLOGY

## Rural Gaming Tribes

Cocopah Indian Tribe  
Colorado River Indian Tribes  
Fort Mojave Indian Tribe  
Quechan Tribe  
Navajo Nation  
San Carlos Apache Tribe  
Tonto Apache Nation  
Yavapai-Apache Nation  
Yavapai-Prescott Tribe  
White Mountain Apache Tribe

## Metro Phoenix/Tucson Tribes

Ak-Chin Indian Community  
Fort McDowell Yavapai Nation  
Gila River Indian Community  
Salt River Pima-Maricopa Indian Community  
Tohono O'Odham Nation  
Pascua Yaqui Tribe

## Non-Gaming Tribes

Havasupai Tribe  
Hopi Tribe  
Hualapai Tribe  
Kaibab-Paiute Tribe  
San Juan Southern Paiute Tribe  
Zuni Tribe

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# COMPACTS PRIOR TO AMENDMENT

- 22 Tribes – Same compact
- Limited gaming
  - Limited number of casinos
  - Limited number of devices
  - Limited table games
- Class II gaming
- No off-reservation gaming except for lottery, horse racing and betting, bingo, charity events





# COMPACTS PRIOR TO AMENDMENT

- Revenue share 1-8%
  - The shared revenue goes mostly to the Arizona Benefits Fund which is further distributed to the following:
    - Instructional Improvement Fund (A.R.S. 15-978)
    - Arizona Wildlife Conservation Fund (A.R.S. 17-299)
    - Trauma and Emergency Services Fund (A.R.S. 36-2903.07)
    - Commerce and Economic Development Commission Local Communities Fund (A.R.S 41-1505.12)
    - Tourism Fund (A.R.S. 41-2306)
  - A portion of the revenue share is also directed to local governments and such distributions are at the discretion of the tribes.
- Poison Pill
  - Removal of limits
  - Same provisions even without agreement
  - Loss of state shared revenue



# COMPACTS WERE DUE TO EXPIRE IN 2023

## NEGOTIATIONS WENT ON FOR 5+ YEARS

- State had 3 goals:
  - Modernize
  - Keep current culture
  - Increase revenue to the state

## BACKDROP

- Major expansion of state's population since last compact
- Sports betting is now legal
- Changing attitudes towards gambling



Thanks to compromise they were moving closer.



# ARIZONA BENEFITS FUND

- **Expenditures from the Arizona Benefits Fund for FY 2020 were:**
    - Problem Gambling \$ 2,040,749
    - Arizona Department of Gaming \$ 9,161,100
    - Instructional Improvement Fund \$50,877,738
    - Trauma and Emergency Services \$25,427,734
    - Arizona Wildlife Conservation Fund \$ 7,265,066
    - Tourism Fund Account \$ 7,265,066
  - **Total \$102,037,453**
  - The aggregate amounts contributed by all Indian tribes to **cities, towns, and counties** are \$13,970,025.
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# CHANGES IN 2021

MODERNIZATION



# COMPACTS AFTER AMENDMENT

- 20 Tribes signed amendment and it has been approved by the Bureau of Indian Affairs
    - 2 tribes have not signed
  - Compact amendment contains provisions for on-reservation gaming
  - 2021 Gaming Act contains provisions for limited off-reservation gaming are specifically referenced in the Compact and had to be agreed to as part of Compact negotiations
  - Change to revenue share
  - Additional table games included
    - Baccarat, roulette, craps, event wagering, fantasy sports betting, dealer controlled electronic table games
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# COMPACTS AFTER AMENDMENT

- Locations of new casinos and increases in number of casinos allowed
  - Additions to device allocations and increases over time
  - Definition of the Phoenix Metro Area and limits on new casinos in that area
  - Duration – additional 20 years
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# GENERAL OVERVIEW OF 2021 COMPACT AMENDMENTS

## Benefits to the Tribes

- Continued exclusivity for casinos
- Revenue Share changes
- Compact Trust Fund
- Transfer agreements for signing and non-signing tribes
- Additional games
- Preservation of poison pill
- Participation in off-reservation gaming

## Benefits to the State

- Event wagering and fantasy sports
- Increased Revenue
- Maintain the culture of gaming
- Modernization – use of mobile devices for event wagering and fantasy sports without violating the compact

## Joint Benefits

- Certainty
  - Maintain the culture of gaming
  - Modernization
  - Limitations
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# 2021 GAMING ACT

## Sports Betting

### Off-reservation:

- Professional sports teams (NFL, NBA, MLB, NHL, PGA, NASCAR) will be licensed to have retail sports books and mobile sports betting
- Tribes may obtain license for off-reservation mobile sports betting but will be treated like any other vendor
- Total of 20 licenses
- Limited event wagering licenses to Off-Track Betting locations and Race Tracks

### On reservation:

- Mobile limited to on reservation with geo-fencing
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# 2021 GAMING ACT

## Fantasy Sports

### Overview:

- Fantasy sports will be allowed off-reservation
- Exemption for private fantasy sports contest that awards less than \$10,000
- Any other needs license through gaming

### On reservation:

- Tribes can operate fantasy sports on reservation
  - Limited with geo-fencing
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# 2021 GAMING ACT

- Keno run by the lottery, limited to tracks, OTBs and fraternal organizations
  - All new revenue goes to the general fund
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