

Idaho Statesman

Shut the slot machine Pandora's box in Idaho

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The Idaho Constitution is fundamental to the rule of law. Idaho's governor, attorney general, lottery director and legislators all pledged, "I do solemnly swear to support the Constitution of the state of Idaho."

To their credit, when legislators realized last year that historical horse racing (also known as instant racing) machines were constitutionally prohibited slot machine imitations, they acted on their oath and overwhelmingly voted to ban the machines.

The constitution plainly says slot machine imitations are not legal: "No activities permitted by subsection (1) shall employ any form of casino gambling including ... slot machines, or employ any electronic or electromechanical imitation or simulation of any form of casino gambling. (Article III Section 20 (2))

Here's the problem, though. A state law says, "Notwithstanding any other provision of Idaho law, a tribal video gaming machine ... is not a slot machine or an electronic or electromechanical imitation or simulation of any form of casino gambling. (67-429B(2))

In other words, this state law says "notwithstanding the Constitution." And it's the law that's being honored while the Idaho Constitution is ignored.

Idaho Lottery Director Jeffery Anderson, charged to oversee tribal gambling, says he won't touch the unconstitutional slot machines because "Section 67-429(B)(2) Idaho Code states that, when in compliance with subsection (1), the devices are not considered a slot machine or an electronic or electromechanical simulation of any form of casino gambling. Consequently, the machines are allowable under currently effective Idaho statutes." (Feb. 13, 2015, letter to Sen. Bob Nonini, three representatives, and the governor, Idaho State Police director, U.S. attorney, and three deputy attorneys general).

No wonder Idaho's horse tracks continue to push for slot machine imitations. And why Idaho's revenue-maximizing lottery operates rapid-bet TouchTabs slot machine imitations across the state. And why DraftKings and FanDuel think they can get Idaho to legalize online sports gambling. And why

entertainment operations like Dave & Busters host gambling-like devices. And why more gambling expansion will follow on their heels.

Idaho does not respect its own constitution. Why should gambling promoters?

After last year's debate on the horse slot machines, driven by tribal testimony on the unconstitutionality of the machines, current legislators know these issues well. The horse tracks are rightly upset that unconstitutional rapid-bet tribal and lottery machines continue to operate while the similar rapid-bet horse machines are banned.

When Rep. Christy Perry, R-Nampa, asked the Idaho attorney general whether tribal video gaming machines described in Idaho Code 67-429B were subject to Idaho's Constitutional limitations, his official reply was "yes."

Yet no one in authority — not the attorney general, governor, courts or lottery director — has acted on their constitutional oath to shut this Pandora's box.

Will the Legislature?

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