

***Stand Up For California!***  
**“Citizens making a difference”**

[www.standupca.org](http://www.standupca.org)

P. O. Box 355  
Penryn, CA. 95663

May 13, 2013

Honorable Isadore Hall  
California State Assembly Member  
Chairman Assembly G. O. Comm.  
State Capitol 3123  
Sacramento, CA. 95813  
FAX: (916) 319 2164

[Assemblymemberhall@assembly.ca.gov](mailto:Assemblymemberhall@assembly.ca.gov)

Honorable Roderick Wright  
California State Senate  
Chairman Senate G. O. Comm.  
State Capitol 2032  
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[Senator.Wright@sen.ca.gov](mailto:Senator.Wright@sen.ca.gov)

RE: OPPOSE AB 1103 AS WRITTEN

Dear Assembly Member Hall and Senator Wright,

Stand Up for California! is a non-profit public benefit corporation that acts as a statewide community watchdog focusing on gambling issues affecting the State of California. As you both know and understand, California gaming laws are evolving as our state becomes the largest gaming state in the nation. Our organizations concern is that state policy continues to protect the welfare of the public by intensely regulating an industry that has a propensity towards social and financial harm. Secondly, that state regulatory policy should protect the integrity of the industry by setting stringent standards.

We agree that illegal gambling has gotten out-of-hand throughout California. This illegal activity is an attempt by gaming manufactures and investors to create an “emerging jurisdiction” for full scale non-tribal commercial gaming in California. It cannot go without saying how much our organization appreciates the laudable goal of the Los Angeles County Sheriffs to address this illegal activity. However, the language submitted does not cure the problem. Offering only to limit the value of a prize further defines this device as a slot machine under the California Penal Code.

Shortly after the passage of Proposition 1A illegal Bingo machines became an issue as well as numerous *off reservation* proposals, next came the internet cafes with their sweepstake reader cards, and now there appears to be a proliferation of various forms of the “claw machine” known in the industry, as a stand-alone gaming device. Much of these forms of gaming are being promoted by gaming investors from out-of-state and even off-of-the-continent.

### **I. Inappropriate Locations**

Claw machines are slot machines and can be found in Denny's restaurants, K-marts, Winco, Wal-Mart, Fry's, bowling alleys, skating rinks, Chucky Cheese Pizza parlors, gas stations and video game arcades. These are locations that families and particularly teens and mothers with young children frequent. While many of these claw machines offer stuffed animals or cheap toys, some are now offering merchandise valued from \$25.00 to \$100.00 or more. Some are attaching 20, 50 and 100 dollar bills to the stuffed animals to entice players.

Claw Machines offer a form of gambling in close proximity to residential areas and at consumer oriented sites which patrons regularly encounter in the course of their day-to-day activities. Gambling in California is regulated to site specific locations and usually occurs in tribal casinos, card clubs or racetracks which patrons visit specifically for the purpose of gambling and other entertainment. Claw Machines or stand-alone gaming devices create few jobs, and are not accompanied by any significant investment in the local economy. Stand-alone gaming devices appear to provide few economic benefits and potentially higher social costs than traditional forms of gambling.

*This legislation offers no safeguards that require local approvals, limited locations, age restrictions, licensing or background checks of out-of-state vendors. Nor does it provide for regulatory audits of game mechanics or software.*

### **II. AB 1103 is Unconstitutional:**

In June of 1999, the California Supreme Court ruled on the *HERE v. Davis* case. This was the successful challenge to Proposition 5, a statutory ballot measure that included banked or house banked games.

A banking game is one in which any person or entity takes on all comers, paying all winners and collecting from all losers. Under the Supreme Court's analysis a purpose of the California Penal Code Section 330's prohibition against banking games, even though the house does not own the bank.

The Supreme Court held that: Article 4 Section 19 (e) of the California Constitution elevated the Penal Code Section 330's to a constitutional level. Accordingly, the Legislature may not authorize any game that would constitute casino gambling.

### **III. AB 1103's Impact on State General Fund:**

The California Constitution grants exclusive rights to Indian Tribes to operate slot machines. Breach of the exclusive geographic market areas guaranteed in Tribal-State gaming compacts will relieve the affected Indian Tribes of their obligation to

make revenue sharing payments to the State. Operation of gaming devices in violation of California Penal Code, and the exclusivity provisions in Tribal-State Compacts will terminate tribal obligations for substantial funding allocated to the State General Fund.

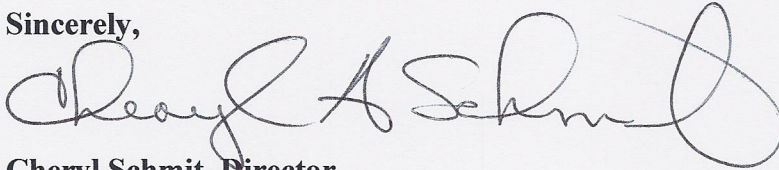
The amended compacts of the United Auburn Indian Community, Rumsey, Pala, Pauma, Viejas, Agua Caliente, Pechanga, San Manuel and Morongo geographic market areas are affected. California's breach of the exclusivity provisions of these compacts would severely impact the State's General Fund by risking the payment of shared gaming revenue totaling in the hundreds of millions of dollars.

**IV. Conclusion:**

The claw machine cannot meet statutory exemptions as an *amusement device*. Introducing language which only limits the value of a prize enhances the machines definition as a slot machine which constitutes casino style gambling. Moreover, it promotes the play of slot machines in locations that are harmful and present unreasonable risk to families, teens and young children. This is detrimental to the state general fund, but more importantly to the welfare of the public and particularly to our state's future generations.

Please list *Stand Up For California!* in opposition to AB 1103.

Sincerely,



Cheryl Schmit, Director

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[www.standupca.org](http://www.standupca.org)

CC: Honorable Kamal Harris, Attorney General of California  
Honorable Jerry Brown, Governor of California