

1 SB333  
2 116632-1  
3 By Senator Beason (Constitutional Amendment)  
4 RFD: Tourism and Marketing  
5 First Read: 02-FEB-10

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8 SYNOPSIS: This bill proposes an amendment to Section  
9 65 of the Constitution of Alabama of 1901, now  
10 appearing as Section 65 of the Official  
11 Recompilation of the Constitution of Alabama of  
12 1901, as amended.

13 This proposed amendment would specify that  
14 the Legislature would have no power to authorize  
15 any gambling activity including lotteries, gift  
16 enterprises, bingo, or other games of chance and  
17 would specify such activity is illegal. The  
18 proposed amendment would specify that the  
19 Legislature shall pass laws to further prohibit  
20 such gambling activity.

21 The proposed amendment would provide what is  
22 deemed a game of chance.

23 This proposed amendment would provide that  
24 any proposed constitutional amendment authorizing  
25 any gambling activity would be subject to a  
26 statewide vote.

1                   This bill would repeal Amendments 386, 387,  
2                   413, 440, 506, 508, 542, 549, 550, 565, 569, 599,  
3                   600, 612, 674, 692, 732, 743, and 744 to the  
4                   Constitution of Alabama of 1901.

5  
6                   A BILL  
7                   TO BE ENTITLED  
8                   AN ACT  
9

10                   Proposing an amendment to Section 65 of the  
11                   Constitution of Alabama of 1901, now appearing as Section 65  
12                   of the Official Recompilation of the Constitution of Alabama  
13                   of 1901, as amended; to further regulate and prohibit certain  
14                   gambling activities; to provide that any proposed  
15                   constitutional amendment authorizing any gambling activity  
16                   shall be subject to a statewide vote; and to repeal Amendments  
17                   386, 387, 413, 440, 506, 508, 542, 549, 550, 565, 569, 599,  
18                   600, 612, 674, 692, 732, 743, and 744 to the Constitution of  
19                   Alabama of 1901.

20                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21                   Section 1. The following amendment to the  
22                   Constitution of Alabama of 1901, as amended, is proposed and  
23                   shall become valid as a part thereof when approved by a  
24                   majority of the qualified electors voting thereon and in  
25                   accordance with Sections 284, 285, and 287 of the Constitution  
26                   of Alabama of 1901, as amended:

27                   PROPOSED AMENDMENT

1           Section 65 of the Constitution of Alabama of 1901,  
2 now appearing as Section 65 of the Official ReCompilation of  
3 the Constitution of Alabama of 1901, as amended, is amended to  
4 read as follows:

5           "Section 65.

6           "Part I. The legislature shall have no power to  
7 authorize any gambling activity, including, but not limited  
8 to, lotteries, or gift enterprises, or any other games of  
9 chance, including, but not limited to, pari-mutuel wagering,  
10 bingo, or class II and class III gaming, as defined in 25  
11 U.S.C. §2703 for any purposes, and such activity shall be  
12 illegal. The legislature shall pass laws to further prohibit  
13 any gambling activity, including, but not limited to, the sale  
14 in this state of lottery or gift enterprise tickets, or  
15 tickets in any scheme in the nature of a lottery or of any  
16 other game of chance; and all acts, or parts of acts  
17 heretofore passed by the legislature of this state,  
18 authorizing a lottery or lotteries, and all acts amendatory  
19 thereof, or supplemental thereto, are hereby avoided void.

20           "Part II. (a) An act or activity shall be deemed a  
21 game of chance under this section if each of the following  
22 apply:

23           "(1) It is played or engaged in for consideration or  
24 by staking or risking money or some other thing of value.

25           "(2) It is played or engaged in for the purpose of  
26 obtaining money or other thing of value or results in the  
27 distribution of money or other thing of value.

1           "(3) The outcome, measured by a single play or over  
2 multiple plays, is determined in material degree by chance,  
3 notwithstanding that the outcome is also determined in equal  
4 or greater degree by other factors.

5           "(b) Such games of chance do not include bona fide  
6 business transactions valid under the law of contracts,  
7 including, but not limited to, contracts for the purchase or  
8 sale at a future date of securities or commodities, and  
9 agreements to compensate for loss caused by the happening of  
10 chance, including, but not limited to, contracts of indemnity  
11 or guaranty and life, health, and accident insurance.

12           "Part III. (a) It shall be illegal to operate or  
13 sponsor a sweepstakes if any of the following occurs:

14           "(1) The person or entity that operates or sponsors  
15 the sweepstakes is primarily engaged in the business of  
16 gambling, operating a sweepstakes, operating coin-operated  
17 amusement machines, or pari-mutuel wagering.

18           "(2) The payout of all sweepstakes sponsored by an  
19 entity over the course of one year exceeds one percent of the  
20 gross receipts of that sponsoring entity during that same  
21 year.

22           "(3) The payout of all sweepstakes sponsored by an  
23 entity over the course of one year exceeds one percent of the  
24 total annual expenses of that sponsoring entity as reported on  
25 its federal tax returns during that same year.

26           "(b) The gambling offenses listed in the criminal  
27 code, as amended, shall apply to an illegal sweepstakes.

1                   "Part IV. Amendments 386, 387, 413, 440, 506, 508,  
2                   542, 549, 550, 565, 569, 599, 600, 612, 674, 692, 732, 743,  
3                   and 744 of the Constitution of Alabama of 1901, are hereby  
4                   repealed.

5                   "Part V. Notwithstanding any other provision of this  
6                   constitution or law, any proposed constitutional amendment  
7                   authorizing any gambling activity shall be subject to a  
8                   statewide vote."

9                   Section 2. An election upon the proposed amendment  
10                  shall be held in accordance with Sections 284 and 285 of the  
11                  Constitution of Alabama of 1901, now appearing as Sections 284  
12                  and 285 of the Official Recompilation of the Constitution of  
13                  Alabama of 1901, as amended, and the election laws of this  
14                  state.

15                  Section 3. The appropriate election official shall  
16                  assign a ballot number for the proposed constitutional  
17                  amendment on the election ballot and shall set forth the  
18                  following description of the substance or subject matter of  
19                  the proposed constitutional amendment:

20                  "Proposing an amendment to the Constitution of  
21                  Alabama of 1901, to prohibit certain gambling activities,  
22                  including games of chance, bingo, and sweepstakes; to repeal  
23                  Amendments 386, 387, 413, 440, 506, 508, 542, 549, 550, 565,  
24                  569, 599, 600, 612, 674, 692, 732, 743, and 744 to the  
25                  Constitution of Alabama of 1901; and to provide that any  
26                  proposed constitutional amendment authorizing any gambling  
27                  activity shall be subject to a statewide vote.

1 "Proposed by Act \_\_\_\_\_."

2 This description shall be followed by the following

3 language:

4 "Yes ( ) No ( )."