

1 **SENATE FLOOR VERSION**

2 March 1, 2018

3 **AS AMENDED**

4 SENATE BILL NO. 1195

By: McCortney of the Senate

and

Wallace of the House

6
7
8 **[gaming - State-Tribal Gaming Act - codification]**

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10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 3A O.S. 2011, Section 262, as
13 amended by Section 1, Chapter 115, O.S.L. 2017 (3A O.S. Supp. 2017,
14 Section 262), is amended to read as follows:

15 Section 262. A. If at least four Indian tribes enter into the
16 model tribal-state compact set forth in Section 281 of this title,
17 and such compacts are approved by the Secretary of the Interior and
18 notice of such approval is published in the Federal Register, the
19 Oklahoma Horse Racing Commission ("Commission") shall license
20 organization licensees which are licensed pursuant to Section 205.2
21 of this title to conduct authorized gaming as that term is defined
22 by ~~this act~~ the State-Tribal Gaming Act pursuant to ~~this act~~ the
23 State-Tribal Gaming Act utilizing gaming machines or devices
24 authorized by ~~this act~~ the State-Tribal Gaming Act subject to the

1 limitations of subsection C of this section. No fair association or
2 organization licensed pursuant to Section 208.2 of this title or a
3 city, town or municipality incorporated or otherwise, or an
4 instrumentality thereof, may conduct authorized gaming as that term
5 is defined by ~~this act~~ the State-Tribal Gaming Act.

6 Notwithstanding the provisions of Sections 941 through 988 of
7 Title 21 of the Oklahoma Statutes, the conducting of and
8 participation in gaming in accordance with the provisions of ~~this~~
9 ~~act~~ the State-Tribal Gaming Act or the model compact set forth in
10 Section 281 of this title is lawful and shall not be subject to any
11 criminal penalties. Provided further, a licensed manufacturer or
12 distributor licensed pursuant to ~~this act~~ the State-Tribal Gaming
13 Act may manufacture, exhibit or store as a lawful activity any
14 machines or devices which are capable of being used to conduct the
15 following types of gaming:

- 16 1. Gaming authorized by the State-Tribal Gaming Act; or
- 17 2. Other gaming which may be lawfully conducted by an Indian
18 tribe in this state.

19 B. Except for Christmas Day, authorized gaming may only be
20 conducted by an organization licensee on days when the licensee is
21 either conducting live racing or is accepting wagers on simulcast
22 races at the licensee's racing facilities. Authorized gaming may
23 only be conducted by organization licensees at enclosure locations
24 where live racing is conducted. Under no circumstances shall

1 authorized gaming be conducted by an organization licensee at any
2 facility outside the organization licensee's racing enclosure. No
3 person who would not be eligible to be a patron of a pari-mutuel
4 system of wagering pursuant to the provisions of subsection B of
5 Section 208.4 of this title shall be admitted into any area of a
6 facility when authorized games are played nor be permitted to
7 operate, or obtain a prize from, or in connection with, the
8 operation of any authorized game, directly or indirectly.

9 C. In order to encourage the growth, sustenance and development
10 of live horse racing in this state and of the state's agriculture
11 and horse industries, the Commission is hereby authorized to issue
12 licenses to conduct authorized gaming to no more than three (3)
13 organization licensees operating racetrack locations at which horse
14 race meetings with pari-mutuel wagering, as authorized by the
15 Commission pursuant to the provisions of this title, occurred in
16 calendar year 2001, as follows:

17 1. An organization licensee operating a racetrack location at
18 which an organization licensee is licensed to conduct a race meeting
19 pursuant to the provisions of Section 205.2 of this title located in
20 a county with a population exceeding six hundred thousand (600,000)
21 persons, according to the most recent federal decennial census,
22 shall be licensed to operate not more than six hundred fifty (650)
23 player terminals in any year. Beginning with the third year after
24 an organization licensee is licensed pursuant to this paragraph to

1 operate such player terminals, such licensee may be licensed to
2 operate an additional fifty (50) player terminals. Beginning with
3 the fifth year after an organization licensee is licensed pursuant
4 to this paragraph to operate such player terminals, such licensee
5 may be licensed to operate a further additional fifty (50) player
6 terminals; and

7 2. Two organization licensees operating racetrack locations at
8 which the organization licensees are licensed to conduct race
9 meetings pursuant to the provisions of Section 205.2 of this title
10 located in counties with populations not exceeding four hundred
11 thousand (400,000) persons, according to the most recent federal
12 decennial census, may each be licensed to operate not more than two
13 hundred fifty (250) player terminals in any year.

14 Subject to the limitations on the number of player terminals
15 permitted to each organization licensee, an organization licensee
16 may utilize electronic amusement games as defined in ~~this act~~ the
17 State-Tribal Gaming Act, electronic bonanza-style bingo games as
18 defined in ~~this act~~ the State-Tribal Gaming Act and electronic
19 instant bingo games as defined in ~~this act~~ the State-Tribal Gaming
20 Act, and any type of gaming machine or device that is specifically
21 allowed by law and that an Indian tribe in this state is authorized
22 to utilize pursuant to a compact entered into between the state and
23 the tribe in accordance with the provisions of the Indian Gaming
24 Regulatory Act and any other machine or device that an Indian tribe

1 in this state is lawfully permitted to operate pursuant to the
2 Indian Gaming Regulatory Act, referred to collectively as
3 "authorized games". An organization licensee's utilization of such
4 machines or devices shall be subject to the regulatory control and
5 supervision of the Commission; provided, the Commission shall have
6 no role in oversight and regulation of gaming conducted by a tribe
7 subject to a compact. The Commission shall promulgate rules to
8 regulate the operation and use of authorized gaming by organization
9 licensees. In promulgating such rules, the Commission shall
10 consider the provisions of any compact which authorizes electronic
11 gaming which is specifically authorized by law by an Indian tribe.
12 For the purpose of paragraphs 1 and 2 of this subsection, the number
13 of player terminals in an authorized game that permits multiple
14 players shall be determined by the maximum number of players that
15 can participate in that game at any given time; provided, however,
16 that nothing in ~~this act~~ the State-Tribal Gaming Act prohibits the
17 linking of player terminals for progressive jackpots, so long as the
18 limitations on the number of permitted player terminals at each
19 organization licensee are not exceeded. Each organization licensee
20 shall keep a record of, and shall report at least quarterly to the
21 Oklahoma Horse Racing Commission, the number of games authorized by
22 this section utilized in the organization licensee's facility, by
23 the name or type of each and its identifying number.

24

1 D. No zoning or other local ordinance may be adopted or amended
2 by a political subdivision where an organization licensee conducts
3 live horse racing with the intent to restrict or prohibit an
4 organization licensee's right to conduct authorized gaming at such
5 location.

6 E. For purposes of ~~this act~~ the State-Tribal Gaming Act,
7 "adjusted gross revenues" means the total receipts received by an
8 organization licensee from the play of all authorized gaming minus
9 all monetary payouts.

10 F. The Oklahoma Horse Racing Commission shall promulgate rules
11 to regulate, implement and enforce the provisions of ~~this act~~ the
12 State-Tribal Gaming Act with regard to the conduct of authorized
13 gaming by organization licensees; provided, regulation and oversight
14 of games covered by a compact and operated by an Indian tribe shall
15 be conducted solely pursuant to the requirements of the compact.

16 G. If an organization licensee operates or attempts to operate
17 more player terminals which offer authorized games than it is
18 authorized to offer to the public by ~~this act~~ the State-Tribal
19 Gaming Act or the terms of its license, upon written notice from the
20 Commission, such activity shall cease forthwith. Such activity
21 shall constitute a basis upon which the Commission may suspend or
22 revoke the licensee's license. The Commission shall promulgate any
23 rules and regulations necessary to enforce the provisions of this
24 subsection.

1 H. ~~This act~~ The State-Tribal Gaming Act is game-specific and
2 shall not be construed to allow the operation of any other form of
3 gaming unless specifically allowed by ~~this act~~ the State-Tribal
4 Gaming Act. ~~This act~~ The State-Tribal Gaming Act shall not permit
5 the operation of slot machines, ~~dice games, roulette wheels,~~ house-
6 banked card games, house-banked table games involving dice or
7 roulette wheels, or ~~games where winners are determined by~~ wagering
8 on the outcome of a sports contest.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 280.1 of Title 3A, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Pursuant to the offer of the Model Tribal Gaming Compact
13 made in Section 280 of Title 3A of the Oklahoma Statutes and the
14 definition of "Covered Games" in the Model Tribal Gaming Compact
15 codified in Section 281 of Title 3A of the Oklahoma Statutes, which
16 the codified compact offer provides the state may approve additional
17 forms of covered games under the compact by amendment of the State-
18 Tribal Gaming Act and a compacting tribe may operate such additional
19 forms of covered games by written supplement to an existing compact,
20 the State hereby approves, subject to this section, an additional
21 game offering as follows:

22 1. "Nonhouse-banked table game" means any table game, including
23 but not limited to those table games involving a wheel, ball or
24 dice, operated in a non-electronic environment in which the tribe

1 has no interest in the outcome of the game, including games played
2 in tournament formats and games in which the tribe collects a fee
3 from the player for participating, and all bets are placed in a
4 common pool or pot from which all player winnings, prizes and direct
5 costs are paid. As provided herein, administrative fees may be
6 charged by the tribe against any common pool(s) or pot(s) in an
7 amount equal to any fee paid the state; provided, that the tribe may
8 seed any pool or pot as it determines necessary from time to time.

9 2. Should a tribe that has compacted with the state in
10 accordance with Sections 280 and 281 of Title 3A of the Oklahoma
11 Statutes, elect to accept this offer of an additional covered game
12 and, accordingly, to operate nonhouse-banked table games under the
13 terms of its existing gaming compact with the state, the tribe shall
14 execute a supplement to the compact, to provide as follows:

15 "MODEL TRIBAL GAMING COMPACT SUPPLEMENT

16 Between the [Name of Tribe]

17 and the STATE OF OKLAHOMA

18 To be governed in accord with the [Name of Tribe]'s State-Tribal
19 Gaming Compact ("Compact"), approved by the United States Department
20 of the Interior on [Date], the [Name of Tribe] ("Tribe") accepts the
21 state's offer of additional covered game codified in this section,
22 which offer and this acceptance are subject to the following terms:

23 Part 1. TITLE
24

1 This document shall be referred to as the "[Name of Tribe] and
2 State of Oklahoma Gaming Compact Nonhouse-Banked Table Games
3 Supplement ("Gaming Compact Supplement").

4 Part 2. TERMS

5 A. The Tribe hereby memorializes its election to accept the
6 state's offer of an additional covered game, which offer is codified
7 in this section.

8 B. The Tribe agrees, subject to the enforcement and exclusivity
9 provisions of its Compact, to pay to the state ten percent (10%) of
10 the monthly net win of the common pool(s) or pot(s) from which
11 prizes are paid for nonhouse-banked table games. The Tribe is
12 entitled to keep an amount equal to state payments from the common
13 pool(s) or pot(s) as part of its cost of operating the games. For
14 all purposes, such payment shall be deemed an exclusivity and fee
15 payment as provided in paragraph 2 of subsection A of Part 11 of the
16 Model Tribal Gaming Compact; provided, the Tribe accepts and has no
17 objection to the state's allocation, pursuant to this subsection, of
18 a portion of such monies deposited to the General Revenue Fund
19 pursuant to Section 280.1 of Title 3A of the Oklahoma Statutes to
20 the Department of Mental Health and Substance Abuse Services for the
21 treatment of compulsive gambling disorder and educational programs
22 related to such disorder.

23 C. The Tribe's operation of nonhouse-banked table games
24 pursuant to this supplement shall, for all purposes, including

1 enforcement and exclusivity, be treated as subject to and lawfully
2 conducted under the terms and provisions of the Compact.

3 Part 3. AUTHORITY TO EXECUTE

4 This Gaming Compact Supplement, to the extent it conforms with
5 this section, is deemed approved by the State of Oklahoma. No
6 further action by the state or any state official is necessary for
7 this Gaming Compact Supplement to take effect upon approval by the
8 Secretary of the United States Department of the Interior and
9 publication in the Federal Register. The undersigned tribal
10 official(s) represents that he or she is duly authorized and has the
11 authority to execute this Gaming Compact Supplement on behalf of the
12 tribe for whom he or she is signing.

13 APPROVED:

14 [Name of Tribe]

15 _____ Date: _____

16 [Title]"

17 B. A tribe electing to accept this additional game offering is
18 responsible for submitting a copy of the executed supplement to the
19 Secretary of the United States Department of the Interior for
20 approval and publication in the Federal Register.

21 C. Upon approval of a supplement by the Secretary of United
22 States Department of the Interior, the supplement shall be construed
23 as an acceptance of this offer and a supplement to the tribe's
24 existing State-Tribal Gaming Compact with the state. Thereafter,

1 nonhouse-banked table games shall be deemed a covered game pursuant
2 to the compact.

3 D. Upon approval of a supplement by the Secretary of United
4 States Department of the Interior and subject to the enforcement and
5 exclusivity provisions of its existing State-Tribal Gaming Compact
6 with the state, the electing tribe shall be deemed pursuant to such
7 supplement to be in agreement to pay ten percent (10%) of the
8 monthly net win of the common pool(s) or pot(s) from which prizes
9 are paid for nonhouse-banked table games. The tribe shall be
10 entitled to keep an amount equal to state payments from the common
11 pool(s) or pot(s) as part of its cost of operating the games. For
12 all purposes, such payment shall be deemed an exclusivity and fee
13 payment under paragraph 2 of subsection A of Part 11 of the Model
14 Tribal Gaming Compact between the electing tribe and the state;
15 provided, the state will transfer __ percent (__%) of such monies
16 deposited to the General Revenue Fund pursuant to Section 280.1 of
17 Title 3A of the Oklahoma Statutes to the Department of Mental Health
18 and Substance Abuse Services for the treatment of compulsive
19 gambling disorder and educational programs related to such disorder.

20 E. The offer contained in this section shall not be construed
21 to permit the operation of any additional form of gaming by
22 organization licensees or permitting any additional electronic or
23 machine gaming within Oklahoma.

24

1 F. Notwithstanding the provisions of Sections 941 through 988
2 of Title 21 of the Oklahoma Statutes, the conducting of and
3 participation in any game authorized pursuant to this section are
4 lawful when played pursuant to a compact supplement which has become
5 effective in accordance with this section.

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
7 March 1, 2018 - DO PASS AS AMENDED
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