

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE BILL NO. 2074

BY: LITTLEFIELD of the HOUSE  
and  
SMITH of the SENATE

( AMUSEMENTS AND SPORTS - OKLAHOMA CHARITY GAMES  
ACT - AMENDING 21 O.S. 1991, SECTIONS 941 AND  
981 - AMENDING 22 O.S. 1991, SECTION 1402 -  
AMENDING 68 O.S. 1991, SECTION 1355 -  
CODIFICATION - EFFECTIVE DATE -

EMERGENCY )

AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

"[ AMUSEMENTS AND SPORTS - CREATING OKLAHOMA CHARITY GAMES  
ACT - AMENDING 22 O.S., SECTION 1402 - OKLAHOMA CORRUPT  
ORGANIZATIONS PREVENTION ACT - AMENDING 68 O.S., SECTION  
1355 - EXEMPTIONS FROM SALES TAX - CODIFICATION -

EMERGENCY ]

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 301 of Title 3A, unless there is  
created a duplication in numbering, reads as follows:

A. For the protection of charitable organizations and the  
general public seeking to assist such organizations through

participation in certain charity organized activities, the Legislature declares that it is necessary to restrict the conducting of certain games of chance by enacting an Oklahoma Charity Games Act. Such restrictions are for the purpose of authorizing the conducting of certain games of chance to certain organizations which function exclusively for charitable purposes in conformance with state and federal laws regulating such organizations.

The Legislature finds that it is in the interest of the health, welfare and safety of the citizens of the State of Oklahoma that games of chance offered to the public by other than charitable organizations which are commonly referred to as "commercial bingo" or "commercial operations" are hereby prohibited in this state.

The Legislature further finds that offering to the public certain types of games of chance including but not limited to games commonly referred to as bingo games and other types of instant winner games by other than a licensed organizer is declared to be a "commercial operation" and is in violation of the law.

B. Sections 1 through 25 of this act shall be known and may be cited as the "Oklahoma Charity Games Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 302 of Title 3A, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Charity Games Act:

1. "Bingo" means a game in which each player receives a bingo face and covers the squares as the caller announces a number, letter, or combination of numbers and letters. The numbers and letters called are on an object selected at random either manually or mechanically from a receptacle in which have been placed the objects bearing the numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the bingo face squares. The winner of each bingo game is the player who first

properly covers a predetermined and announced pattern of squares upon the bingo face being used by the player;

2. "Bingo face" means a flat piece of paper or thin pasteboard which is marked off into twenty-five (25) squares arranged in five (5) horizontal rows of five (5) squares each and five (5) vertical rows of five (5) squares each, with each square being designated by number, letter or combination of numbers and letters and with the center square designated with the word "free" which cannot be reused after the game in which a player has used it is over;

3. "Business entity" is a person, company, corporation, or partnership organized for profit;

4. "Charity game" means a bingo game conducted by an organization pursuant to the provisions of the Oklahoma Charity Games Act;

5. "Charity game equipment" means any object which is used to conduct or play a charity game including but not limited to bingo faces;

6. "Commission" means the Oklahoma Tax Commission;

7. "Day session" means the set time frame within which conducting of charity games is authorized beginning no earlier than 10:00 a.m. and ending no later than 5:00 p.m.;

8. "Distributor" means a person or business entity that sells, markets, or otherwise provides charity game equipment to an organization;

9. "Doing business" means either conducting a charity game by an organization or providing goods or services to an organization by a business entity;

10. "Licensee" means any person, organization, or business entity which has received a license from the Commission;

11. "Location" means the building, including the individual rooms and equipment in the rooms, grounds, and appurtenances including adjacent premises if subject to the direct or indirect

control of the organizer while conducting a charity game which are used in connection with or in furtherance of the conducting of a charity game;

12. "Manufacturer" means a person or business entity that assembles, from raw materials, supplies or subparts to form a completed series of charity game equipment for use in charity games and that sells, markets, or otherwise provides such equipment to a distributor;

13. "Night session" means the set time frame within which conducting of charity games is authorized beginning no earlier than 5:00 p.m. and ending no later than 12:00 p.m. midnight;

14. "Organization" means a religious, charitable, labor, fraternal, educational, or other type of association or any branch, lodge, chapter, or auxiliary of such association which:

- a. operates without profit to its members, and
- b. has been in existence and been operating as a nonprofit organization for not less than two (2) years prior to applying for an organizer license, and
- c. is tax exempt pursuant to the provisions of paragraphs (3), (4), (5), (6), (7), (8), (10), and (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended;

15. "Organizer" means an organization which has applied for and received a license from the Commission to conduct charity games; and

16. "Person" means a human being.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 303 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Beginning October 1, 1992, the Commission shall be the licensing authority for the licensing of organizations, manufacturers and distributors conducting, supplying, or otherwise providing charity games to the public in this state.

B. The Commission shall be responsible for the administration and enforcement of the Oklahoma Charity Games Act. In addition to such other duties as may be imposed on the Commission by law, and in order to perform that responsibility, the Commission shall:

1. Promulgate rules for the purpose of administering and enforcing the Oklahoma Charity Games Act;

2. Have the authority to issue, renew, suspend or revoke any license authorized by the Oklahoma Charity Games Act;

3. Conduct or direct the conducting of investigations relating to issuing, renewing, suspending or revoking any license authorized by the Oklahoma Charity Games Act;

4. Institute proceedings as the complainant against both licensees and nonlicensees for violations of the Oklahoma Charity Games Act;

5. Maintain records of all proceedings including minutes of meetings, applications for licenses and related documents of applicants and official documents filed in any hearings conducted by the Commission arising out of any provision of the Oklahoma Charity Games Act or the rules and regulations of the Commission. Copies of such records certified by the secretary-member of the Commission shall be admissible as evidence in a civil or criminal action;

6. Make such expenditures including employing such additional staff as may be necessary for the administration and enforcement of the Oklahoma Charity Games Act;

7. Establish a standard recordkeeping system for the conduct of charity games;

8. Establish a model internal control system for use by organizers;

9. Conduct all hearings including actions on investigations, issuance, denial, revocation, or suspension of a license, adoption of rules, and conduct meetings in accordance with the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75

of the Oklahoma Statutes, and the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes; and

10. Be responsible for approving locations for the conducting of charity games.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 304 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. An applicant for an initial license pursuant to the provisions of the Oklahoma Charity Games Act shall have until October 1, 1992, to apply for such license.

B. All licenses issued pursuant to the provisions of the Oklahoma Charity Games Act shall be valid for one (1) year from the date of issue.

C. A license issued by the Commission shall not be transferable under any circumstances.

D. The initial and renewal fees for licenses authorized by the Oklahoma Charity Games Act shall be as follows:

1. Organizer License - One Hundred Dollars (\$100.00);
2. Distributor License - Two Thousand Dollars (\$2,000.00); and
3. Manufacturer License - Two Thousand Dollars (\$2,000.00).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 305 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any organization which conducts any charity game activities not more than four (4) times per year may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. Such exemption may be obtained by the filing of a verified application with the Commission, signed by the executive officer of said organization stating that said organization shall conduct a charity game session four (4) or fewer times per calendar year and the dates and times and location wherein such activities shall occur.

Any organization which conducts any charity game activities not more than four (4) times per year which has obtained an exemption from the Commission shall not:

1. Be required to obtain any type of license required by the Oklahoma Charity Games Act;

2. Be restricted to the use of bingo faces as defined in the Oklahoma Charity Games Act; or

3. Be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act.

B. Any hospital, nursing home or convalescent facility which conducts charity games at such facilities on a regular basis for the residents of the facility may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. Such exemption may be obtained by the filing of a verified application with the Commission signed by the owner or supervisor of the facility stating that said facility shall conduct charity games at the specified facility for the residents of the facility.

1. Any hospital, nursing home or convalescent facility which conducts charity games at such facilities on a regular basis for the residents of the facility which has obtained an exemption from the Commission may conduct charity games at the specified facility for the residents of the facility only in accordance with the following restrictions:

- a. the facility shall only conduct bingo games during a day session. No night sessions shall ever be conducted by the facility,

- b. the facility shall only conduct bingo games on a weekday. No sessions shall be conducted on Saturday or Sunday, and

- c. the prizes either in cash or any other thing of value shall not exceed Twenty-five Dollars (\$25.00) per session.

2. Any hospital, nursing home or convalescent facility which conducts charity games at such facilities on a regular basis for the residents of the facility which has obtained an exemption from the Commission shall not:

- a. be required to obtain any type of license required by the Oklahoma Charity Games Act,
- b. be restricted to the use of bingo faces, as defined in the Oklahoma Charity Games Act, or
- c. be required to purchase charity game equipment from persons or business entities licensed pursuant to the provisions of the Oklahoma Charity Games Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 306 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The Commission shall not issue any type of license to a person who:

1. Is not a citizen of the United States;
2. Has not been a resident of the State of Oklahoma for at least three (3) years preceding the application for a license; or
3. Has been convicted, pled guilty, or pled nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 307 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Commission shall refuse to issue, deny renewal, suspend, or revoke any license for any one or more of the following reasons:

1. Obtaining a license from the Commission through fraud, misrepresentation, or concealment of a material fact;



2. Conviction, plea of guilty, or plea of nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States; or

3. Failure to remit taxes owed to the state when due.

B. The Commission may refuse to issue, deny renewal, suspend, or revoke any license for any one or more of the following reasons:

1. Violation of any provision of the Oklahoma Charity Games Act. A determination of action on a license pursuant to the provisions of this paragraph shall not be limited to actions against a licensee that has been convicted of a violation in a court of competent jurisdiction;

2. Violation of any rule adopted by the Commission;

3. Failure to implement an order of the Commission;

4. Failure by an organizer to provide adequate internal control in accordance with the rules for such control established by the Commission; or

5. Failure to keep financial records in accordance with the standard system established by the Commission.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 308 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any organization desiring to conduct a charity game in this state shall apply to the Commission for an organizer license. An organizer license shall only be issued to an organization. A business entity shall not be qualified under any conditions to hold an organizer license.

B. An organizer license shall not be leased or assigned in any manner to a business entity.

C. An organizer shall be limited to only one license and to doing business at only one location.

D. Only an organizer or a person paid by an organizer shall conduct a charity game for which a charge is made. Compensation

paid to an organizer or other person for conducting a charity game shall not exceed three times the amount of the minimum wage specified under federal law.

E. An initial application for an organizer license shall be sworn and attested to by a principal officer of the applicant organization and shall include:

1. A certified copy of the document from the U.S. Internal Revenue Service which grants the applicant tax-exempt status and the federal identification number;

2. A certified copy of the articles of incorporation, and certificate of incorporation of the organization;

3. A copy of the bylaws of the organization;

4. A copy of the minutes of the meeting of the organization at which the governing body was elected and the terms of office of each member of the governing body;

5. A copy of the minutes of the meeting of the governing body of the organization at which the application for an organizer license was authorized;

6. The name and address of a person authorized to receive notice in behalf of the organization;

7. The address of the location where the charity games will be conducted; and

8. Such other information deemed necessary by the Commission to assure eligibility for a license.

F. A renewal application shall only include any changes in the information required to be submitted with the initial application.

G. An organizer license shall be placed within public view at all times in a conspicuous place at the location where the charity game is being conducted.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person or business entity desiring to sell or supply any charity game equipment to an organizer in this state shall apply to the Commission for a distributor license.

B. An application for a distributor license shall include:

1. The name and address of the applicant and the name and address of each of its separate locations distributing charity game equipment; and

2. The name and address of all owners of the distributing business entity, if the business entity is not a corporation. If the business entity is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning three percent (3%) or more of any class of stock in the corporation.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 310 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person or business entity desiring to sell or supply charity game equipment to a distributor in this state shall apply to the Commission for a manufacturer license.

B. An application for a manufacturer license shall include:

1. The name and address of the applicant and the name and address of each of its separate locations manufacturing charity game supplies;

2. The name and address of all owners of the manufacturing business entity, if the business entity is not a corporation. If the business entity is a corporation, the name and address of each of the officers and directors of the corporation and of each stockholder owning three percent (3%) or more of any class of stock in the corporation; and

3. If the applicant is a foreign manufacturer, the full name, business address, and home address of the person who is a resident

of this state authorized to receive notice in behalf of the business entity.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 311 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Upon an application for a license being filed with the Commission, the Commission shall give written notice of the application to the district attorney, county sheriff, city attorney, and chief of police or marshal of the municipality and county in which the applicant will be doing business.

1. The written notice shall be provided by regular first-class mail sent not more than ten (10) calendar days from the date of receipt of the application.

2. The written notice shall contain the name of the applicant, the location at which the organization or business entity will be doing business, and the date on which the Commission will consider the application.

B. Applications for any of the licenses provided for in the Oklahoma Charity Games Act shall be on such form as designated by the Commission.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 312 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any person who is a resident of the municipality or county in which the organization or business entity will be doing business may protest such application.

B. To be considered by the Commission, the protest must:

1. Be submitted in writing;

2. Be signed by the person protesting;

3. Contain the place of residence and the mailing address of the protested; and

4. Contain a concise statement as to why the application is being protested.

C. Within thirty (30) calendar days of the date of receipt the Commission shall conduct a hearing on all written protests meeting the requirements of this section.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 313 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The district attorney of the county or the city attorney of the municipality wherein a license has been issued may file a petition with the Commission to revoke a license alleging the violation of the Oklahoma Charity Games Act or rule promulgated by the Commission by the holder of the license, its agents, officers, or employees.

1. Within ten (10) calendar days of receiving the petition from the district attorney or city attorney, the Commission shall notify by mail with return receipt requested the person, organization, or business entity against whom the application for revocation was filed.

2. The Commission shall conduct a hearing on the petition and enter a written order setting out the decision on the petition.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 314 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Every licensee shall keep and maintain a set of records which shall include such details as required by the Commission of the activities of the licensee relating to doing business in this state pursuant to the provisions of the Oklahoma Charity Games Act.

1. Such records shall be available for inspection by the Commission during regular business hours.

2. Such records shall be maintained for a period of not less than three (3) years from the date of the end of the fiscal year of the licensee.

3. Such records maintained shall include copies of all invoices to all organizations in this state which shall include but not be limited to information as to the amount of charity game equipment sold in this state.

B. Each distributor shall also submit a quarterly report to the Commission containing the name, address, and license or exemption of each purchaser of charity game equipment.

C. Each licensed manufacturer shall also submit a quarterly report to the Commission containing the following information:

1. The total amount of charity game equipment sold in this state;

2. The total number with the serial numbers and sequential order of bingo faces sold; and

3. Copies of all invoices for all charity game equipment sold which shall include but not be limited to information as to the number of games sold in this state.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 315 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Organizers shall purchase their supplies only from distributors licensed by this state and payment for said supplies shall be made upon receipt of the supplies at the place of delivery.

B. Distributors shall market, sell, or supply charity game equipment in this state only to an organization, organizer, exempt organization or exempt hospital, nursing home or convalescent facility.

C. Distributors shall purchase or otherwise obtain charity game equipment only from manufacturers licensed to do business in this state.

D. Manufacturers shall sell charity game equipment in this state only to distributors licensed pursuant to the provisions of the Oklahoma Charity Games Act to do business in this state.

E. Charity game equipment owned by an organization may be disposed of by selling it or giving it away to another organization, exempt organization or exempt hospital, nursing home or convalescent facility.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 316 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. All damaged and winning bingo faces shall be reported in such manner as the Commission shall prescribe.

B. No unused bingo faces shall be permitted to leave the location where the charity game is being conducted.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 317 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. No licensed organization shall sell, serve or permit to be consumed any alcoholic beverage as defined in Section 506 of Title 37 of the Oklahoma Statutes or nonintoxicating beverage as defined in Section 163.2 of Title 37 of the Oklahoma Statutes in any room or outdoor area where and during the time a charity game is being conducted.

B. No charity game shall be conducted on the first day of the week, commonly known and designated as Sunday.

C. No charity game shall be conducted between the hours of midnight and 10:00 a.m.

D. Not more than one session shall be conducted at a location during a calendar day.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 318 of Title 3A, unless there is created a duplication in numbering, reads as follows:

In the conducting of a bingo game:

1. Not more than Five Hundred Dollars (\$500.00) shall be awarded for winning any one charity game regardless of the type or length of the game; and

2. Not more than a total of Five Thousand Dollars (\$5,000.00) in cash or any other thing of value shall be paid out during a day session or a night session. Such total shall include awards for winning the game, and all other cash or other thing of value given or awarded during the session. For purposes of this subsection, value means the retail cost which would be paid if the item were bought in a retail store.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 319 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any business entity selling food, drink, or any other product at any charity game location shall be required to obtain an Oklahoma sales tax permit prior to such sale.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 320 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby levied a tax in the amount of one cent (\$0.01) upon each bingo face sold in this state to be paid by the distributor.

B. There is hereby levied upon all charity game equipment except bingo faces a tax in the amount of ten percent (10%) of the price paid for such equipment as shown on the purchase invoice.

C. All taxes levied pursuant to the provisions of this section shall be collected and remitted by the distributor to the Commission.

1. The distributor shall submit a copy of each invoice from the manufacturer from which the distributor obtained the charity game equipment stating the amount and price of each item obtained.



2. The distributor shall submit a copy of each invoice submitted for payment to a purchaser of charity game equipment.

3. In the event all of the items obtained by the distributor have not been provided to a purchaser at the time the tax is due, the distributor shall provide a list of items held by the distributor but not yet sold or provided to a purchaser.

D. The taxes shall be due and paid monthly, and shall be deemed delinquent if not paid within ten (10) calendar days of the month following the month during which the items were purchased from the manufacturer.

E. Charity game equipment taxed pursuant to the provisions of the Oklahoma Charity Games Act shall be exempt from taxation pursuant to any other law of this state levying a sales tax, consumers tax, or use tax.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 321 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The revenues collected by the Commission pursuant to the provisions of the Oklahoma Charity Games Act including all license fees, taxes, and all civil penalty fines shall be distributed as follows:

1. Seventy percent (70%) shall be paid monthly by the Commission to the State Treasurer to be placed in the General Revenue Fund, to be paid out pursuant to direct appropriation by the Legislature;

2. Fifteen percent (15%) shall be placed in the Oklahoma Tax Commission Revolving Fund for use by the Commission to be used in implementing and enforcing the provisions of the Oklahoma Charity Games Act;

3. Seven and one-half percent (7 1/2%) of the revenues collected including license fees, taxes, and civil fines resulting from the issuance of an initial or renewal license pursuant to the

provisions of the Oklahoma Charity Games Act to a licensee doing business within a municipality shall be transmitted by the Commission to the treasurer of that municipality;

4. Seven and one-half percent (7 1/2%) of the revenues collected including license fees, taxes, and civil fines resulting from the issuance of an initial or renewal license pursuant to the provisions of the Oklahoma Charity Games Act to a licensee doing business within a county shall be transmitted by the Commission to the treasurer of that county;

5. In the event a licensee is doing business outside the corporate limits of a municipality, fifteen percent (15%) of the revenues collected including license fees, taxes, and civil fines resulting from the issuance of an initial or renewal license pursuant to the provisions of the Oklahoma Charity Games Act shall be transmitted by the Oklahoma Tax Commission to the treasurer of the county within which the licensee is doing business;

6. The revenues collected from nonlicensees for civil penalties imposed pursuant to the provisions of the Oklahoma Charity Games Act shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer to be placed in the General Revenue Fund, to be paid out pursuant to direct appropriation by the Legislature.

B. The Commission shall devise such reporting forms as necessary for the distributor to furnish with the taxes due.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 322 of Title 3A, unless there is created a duplication in numbering, reads as follows:

Any person convicted of violating the provisions of the Oklahoma Charity Games Act shall be guilty of a misdemeanor punishable by incarceration for a period not to exceed one (1) year and by a fine of not less than Two Hundred Dollars (\$200.00) and not more than Two Thousand Dollars (\$2,000.00) or both such fine and confinement.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 323 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other powers conferred on the Commission to impose penalties for violations of the provisions of the Oklahoma Charity Games Act, whenever in the judgment of the Commission any person, organization, or business entity has committed an act which constitutes a violation of the Oklahoma Charity Games Act, the Commission may:

1. After notice and hearing, issue a cease and desist order to any person or business entity that should have obtained a license;

2. Impose a fine of not more than Five Thousand Dollars (\$5,000.00) for each violation in the event that after the issuance of an order to cease and desist the illegal activity, the person or business entity that the order is directed to commits any act in violation of the order;

3. Make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Commission that such violations have occurred, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond.

B. Each day a violation is continuing shall constitute a separate offense.

C. Administrative fines imposed pursuant to the provisions of this section shall be enforceable in the district courts of this state.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 324 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any municipal ordinances, resolutions, or charter provisions or county regulations which duplicate or establish charity game licenses are superseded by the Oklahoma Charity Games Act.

B. Any organization which holds an unexpired license to conduct a bingo game issued pursuant to the provisions of Sections 995.1 through 995.15 of Title 21 of the Oklahoma Statutes is authorized to continue conducting such licensed game until the expiration date of said license.

C. Any such licensee continuing to conduct bingo games pursuant to the license issued by a district court clerk shall submit the information required in Section 8 of this act by October 1, 1992.

D. Upon expiration of the license issued by the district court clerk, the organization shall submit a new application and pay the appropriate fees as required for applicants which did not have a license to conduct bingo games on July 1, 1992.

E. The provisions of this section shall not be construed to guarantee the issuance of an organizer license to the organization upon the expiration of the license issued by a district court clerk.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Any charity game equipment purchased except by an exempt organization or exempt hospital, nursing home or convalescent facility from other than a licensed distributor is declared to be contraband.

B. Any charity game equipment sold or offered for sale by a business entity which is not a licensed distributor is declared to be contraband.

C. Any charity game equipment on which the taxes have not been paid is declared to be contraband.

D. Any charity game equipment in the possession of an organization or business entity which has not been licensed or

obtained an exemption pursuant to the Oklahoma Charity Games Act shall be declared contraband.

E. Such contraband charity game equipment shall be subject to confiscation, forfeiture, and destruction in the following manner:

1. The Commission, its agent, or the district attorney of the county wherein the alleged contraband is located shall seize the charity game equipment and maintain it for safekeeping pending a final adjudication of the legality of the sale or purchase;

2. The Commission, its agent, or the district attorney seizing the contraband shall apply to the district court for an order forfeiting the charity game equipment and directing its destruction;

3. The court clerk shall give the owner of the contraband fourteen (14) calendar days' written notice of the hearing on the request for the order for destruction;

4. Upon obtaining an order from the court ordering destruction, the Commission or the district attorney shall destroy the charity game equipment in the manner they deem most appropriate.

SECTION 26. AMENDATORY 21 O.S. 1991, Section 941, is amended to read as follows:

Section 941. ~~Every~~ Except as provided in the Oklahoma Charity Games Act, every person who opens, or causes to be opened, or who conducts, whether for hire or not, or carries on either poker, roulette, craps or any banking or percentage, or any gambling game played with dice, cards or any device, for money, checks, credits, or any representatives of value, or who either as owner or employee, whether for hire or not, deals for those engaged in any such game, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), and by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than ten (10) years.

SECTION 27. AMENDATORY 21 O.S. 1991, Section 981, is amended to read as follows:

Section 981. As used in this act:

1. A "bet" is a bargain in which the parties agree that, dependent upon chance, or in which one of the parties to the transaction has valid reason to believe that it is dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

- a. bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance; or
- b. ~~any bingo game or a game of chance with comparable characteristics by or for participants conducted by an authorized nonprofit organization under the laws of this state pursuant to Title 21, Oklahoma Statutes, Sections 995.1 to 995.18~~ charity game conducted pursuant to the provisions of the Oklahoma Charity Games Act; or
- c. offers of purses, prizes or premiums to the actual participants in public and semipublic events, as follows, to wit: Rodeos, animal shows, expositions, fairs, athletic events, tournaments and other shows and contests where the participants qualify for a monetary prize or other recognition. This subparagraph further excepts an entry fee from the definition of "a bet" as applied to enumerated public and semipublic events.

2. "Consideration" as used in this section means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration. As used in this paragraph, the term "consideration" shall not include sums of money paid by or for participants in any bingo game or a game of chance with comparable characteristics as defined by subparagraph b of paragraph 1 of this section and it shall be conclusively presumed that such sums paid by or for said participants were intended by said participants to be for the benefit of the organizations described in subparagraph b of paragraph 1 of this section for the use of such organizations in furthering the purposes of such organizations;

3. A "gambling device" is a contrivance designed primarily for gambling purposes which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, or any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device; and

4. A "gambling place" is any place, room, building, vehicle, tent or location which is used for any of the following: making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters

of gambling places is admissible on the issue of whether it is a gambling place.

SECTION 28. AMENDATORY 22 O.S. 1991, Section 1402, is amended to read as follows:

Section 1402. As used in the Oklahoma Corrupt Organizations Prevention Act:

1. "Beneficial interest" includes:

- a. the interest of a person as a beneficiary pursuant to a trust, in which the trustee holds legal title to personal or real property, or
- b. the interest of a person as a beneficiary pursuant to any other arrangement under which any other person holds legal title to personal or real property for the benefit of such person.

The term beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership;

2. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, trust, governmental entity, or other legal entity, or any union, association, unincorporated association or group of persons, associated in fact although not a legal entity, involved in any lawful or unlawful project or undertaking;

3. "Innocent party" includes bona fide purchasers and victims;

4. "Lien notice" means the notice pursuant to the provisions of Section 1412 of this title;

5. "Pattern of racketeering activity" means two or more occasions of conduct:

- a. that include each of the following:
  - (1) constitute racketeering activity,
  - (2) are related to the affairs of the enterprise,
  - (3) are not isolated, and



(4) are not so closely related to each other and connected in point of time and place that they constitute a single event, and

b. where each of the following is present:

(1) at least one of the occasions of conduct occurred after November 1, 1988,

(2) the last of the occasions of conduct occurred within three (3) years, excluding any period of imprisonment served by any person engaging in the conduct, of a prior occasion of conduct, and

(3) for the purposes of Section 1403 of this title each of the occasions of conduct constituted a felony pursuant to the laws of this state;

6. "Pecuniary value" means:

a. anything of value in the form of money, a negotiable instrument, or a commercial interest, or anything else, the primary significance of which is economic advantage, or

b. any other property or service that has a value in excess of One Hundred Dollars (\$100.00);

7. "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property;

8. "Personal property" includes any personal property, or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. Personal property and beneficial interest in personal property shall be deemed to be located where the trustee, the personal property, or the instrument evidencing the right is located;

9. "Principal" means a person who engages in conduct constituting a violation of the Oklahoma Corrupt Organizations Prevention Act or who is legally accountable for the conduct of

another who engages in a violation of the Oklahoma Corrupt Organizations Prevention Act;

10. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one or more of the following provisions of the Oklahoma Statutes, regardless of whether such act is in fact charged or indicted:

- a. relating to homicide pursuant to the provisions of Sections 651, 652, 653, 701.7, 701.8, 701.16, 711 or 716 of Title 21 of the Oklahoma Statutes or relating to concealment of homicidal death pursuant to the provisions of Section 543 of Title 21 of the Oklahoma Statutes,
- b. relating to kidnapping pursuant to the provisions of Sections 741, 745, 891 or 1119 of Title 21 of the Oklahoma Statutes,
- c. relating to sex offenses pursuant to the provisions of Sections 886, 888, 1021, 1021.2, 1021.4, 1024.2, 1040.51, 1111, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes,
- d. relating to bodily harm pursuant to the provisions of Sections 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1 of Title 21 of the Oklahoma Statutes,
- e. relating to theft, where the offense constitutes a felony, pursuant to the provisions of Sections 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720, 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma Statutes,
- f. relating to forgery pursuant to the provisions of Sections 1561, 1562, 1571, 1572, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586,

- 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of the Oklahoma Statutes,
- g. relating to robbery pursuant to the provisions of Sections 797, 800 or 801 of Title 21 of the Oklahoma Statutes,
  - h. relating to burglary pursuant to the provisions of Sections 1431, 1435 or 1437 of Title 21 of the Oklahoma Statutes,
  - i. relating to arson pursuant to the provisions of Sections 1368, 1401, 1402, 1403 or 1404 of Title 21 of the Oklahoma Statutes,
  - j. relating to use or possession of a firearm or other offensive weapon while committing or attempting to commit a felony pursuant to the provisions of Sections 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma Statutes,
  - k. relating to gambling pursuant to the provisions of Sections 941, 942, 944, 945, 946, 948, 954, 956, 957, 962, 969, 970, 971, 981, 982, 983, 984, 985, 986, 987, 991, or ~~992, 995.7, 995.8, 995.11 or 995.12~~ of Title 21 of the Oklahoma Statutes,
  - l. relating to bribery in contests pursuant to the provisions of Sections 399 or 400 of Title 21 of the Oklahoma Statutes,
  - m. relating to interference with public officers pursuant to the provisions of Sections 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or 546 of Title 21 of the Oklahoma Statutes,
  - n. relating to interference with judicial procedure pursuant to the provisions of Sections 388, 453, 455, 456, 491, 496 or 504 of Title 21 of the Oklahoma Statutes,

- o. relating to official misconduct pursuant to the provisions of Sections 380, 381, 382, 383, 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma Statutes,
- p. relating to the Uniform Controlled Dangerous Substances Act, where the offense constitutes a felony, pursuant to the provisions of Section 2-101 et seq. of Title 63 of the Oklahoma Statutes,
- q. relating to automobile theft pursuant to the provisions of Sections 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,
- r. relating to embezzlement pursuant to the provisions of Section 1412 of Title 6 of the Oklahoma Statutes, Section 641 of Title 19 of the Oklahoma Statutes, Sections 341, 531, 1451, 1452, 1453, 1454, 1455, 1456, 1463 or 1464 of Title 21 of the Oklahoma Statutes, Section 163.4 of Title 37 of the Oklahoma Statutes, Section 25 of Title 41 of the Oklahoma Statutes, Section 114 of Title 64 of the Oklahoma Statutes or Sections 506 or 1361 of Title 68 of the Oklahoma Statutes,
- s. relating to extortion, where the offense constitutes a felony, pursuant to the provisions of Sections 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of the Oklahoma Statutes,
- t. relating to fraud, where the offense constitutes a felony, pursuant to the provisions of Sections 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma Statutes, Section 552.18 of Title 18 of the Oklahoma Statutes, Sections 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27,

- 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of the Oklahoma Statutes or Section 604 of Title 62 of the Oklahoma Statutes,
- u. relating to conspiracy, where the offense constitutes a felony, pursuant to the provisions of Sections 421, 422 or 424 of Title 21 of the Oklahoma Statutes,
  - v. relating to prostitution, pornography or obscenity pursuant to the provisions of Sections 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088 of Title 21 of the Oklahoma Statutes,
  - w. relating to the Oklahoma Alcoholic Beverage Control Act, where the offense constitutes a felony, pursuant to the provisions of Section 506.1 et seq. of Title 37 of the Oklahoma Statutes,
  - x. relating to the Oklahoma Securities Act, where the offense constitutes a felony, pursuant to the provisions of Section 1 et seq. of Title 71 of the Oklahoma Statutes, or
  - y. relating to trafficking in children pursuant to the provisions of Sections 866 and 867 of Title 21 of the Oklahoma Statutes;

In addition, "racketeering activity" may be proven by proof of engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the above described conduct within another state, regardless of whether said conduct is chargeable or indictable in that state.

11. "Real property" means any real property or any interest in real property, including any lease of, or mortgage upon real property. Real property and beneficial interest in real property shall be deemed to be located where the real property is located;

12. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee in accordance

with the Oklahoma Trust Act, Section 175.1 et seq. of Title 60 of the Oklahoma Statutes; and

13. "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is unenforceable in the courts of Oklahoma, because the debt was incurred or contracted in violation of a law relating to the business of gambling activity or in violation of federal or state law but does not include any debt owed to a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit or to any debt referred or assigned to a debt collection agency, which referral or assignment is accepted in good faith by the debt collection agency as a debt collectible under the Uniform Commercial Code or other laws of this state and enforceable in the courts of this state.

SECTION 29. AMENDATORY 68 O.S. 1991, Section 1355 (Section 1, Chapter 337, O.S.L. 1991), is amended to read as follows:

Section 1355. Exemptions - Subject to other tax.

There are hereby specifically exempted from the tax levied pursuant to the provisions of this article:

(A) Sale of gasoline ~~or~~, motor fuel, compressed natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, ~~or~~ Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Article 5, 6, or 7 of this title has been, or will be paid;

(B) Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Article 21 of this title has been, or will be paid;

(C) Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Articles 10 and 11 of this title. This exemption

shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This subsection shall not operate to increase or repeal the gross production tax levied by the laws of this state;

(D) Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6004 of this title has been, or will be paid;

(E) Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1513 of this title has been paid; ~~and~~

(F) Leases of twenty-four (24) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title. ~~Provided any such lease exempt from the tax levied pursuant to the provisions of this article which is terminated prior to the expiration of the original term shall be subject to the tax levied by this article in an amount equal to the amount of tax which would have been due without the exemption plus a penalty of twenty percent (20%) of the principal amount of tax which would have been due; provided, however, the penalty provided by this subsection shall not apply if the original lessee acquires title to the leased vehicle within the original term of the lease; and~~

(G) Sales of bingo faces and charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act.

SECTION 30. REPEALER 21 O.S. 1991, Sections 995.1, 995.1a, 995.2, 995.3, 995.3a, 995.4, 995.5, 995.6, 995.7, 995.8, 995.9, 995.10, 995.11, 995.12, 995.13, 995.14 and 995.15, are hereby repealed. 68 O.S. 1991, Section 1355 (Section 19, Chapter 235, O.S.L. 1991), is hereby repealed.

SECTION 31. Sections 1, 2 and 4 through 30 of this act shall become effective October 1, 1992.

SECTION 32. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 6th day of April, 1992.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of

\_\_\_\_\_, 1992.

Speaker of the House of Representatives