

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1559

By: Monks of the House

and

Littlefield, Herbert and
Shurden of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to intoxicating liquors, amusements and sports, and crimes and punishments; amending 21 O.S. 1991, Sections 964 and 1220, which relate to slot machines and transportation of certain beverages, 37 O.S. 1991, Sections 537 and 540, which relate to the Oklahoma Alcoholic Beverage Control Act and Sections 3, 4, 6, 7, 8, 10, 11, 12, 13, 16, 18, 19, 20, 23, 24, 27 and 28, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Sections 402, 403, 405, 406, 407, 409, 410, 411, 412, 415, 417, 418, 419, 422, 423, 426 and 427), which relate to the Oklahoma Charity Games Act; modifying definition; providing that certain provisions not apply in case of commercial bus operated under certain circumstances; modifying requirements for labeling of beer; requiring certain symbol or other designation; disapproving certain permanent and emergency rules of the Oklahoma Tax Commission; directing distribution of certain sections; modifying definition and defining term; granting certain licensing authority with respect to Oklahoma Charity Games Act to Alcoholic Beverage Laws Enforcement Commission; specifying duties of Commission; granting certain powers and authority to certain persons and to Commission; providing procedures for entry and inspection of certain locations or places of business; specifying contents of application for certain exemption; providing that certain entities not be subject to certain restrictions; modifying entities which may qualify for certain exemption; deleting certain restrictions and modifying certain provisions relating to conduct of charity games by exempt organizations; modifying circumstances under which Commission must refuse to issue distributor or manufacturer license; modifying reasons for which Commission must refuse to issue, deny renewal of, suspend or revoke license; authorizing Commission to levy certain fines and establish penalty schedule; providing procedure for deposit of administrative fines; modifying information required to be submitted in application for distributor or manufacturer license; requiring applicant for original license to publish notice of intent to apply for license and specifying requirements related thereto; requiring protest against license application to be submitted to Commission before license is granted; modifying entities to or from which distributors may market, sell, supply, purchase or obtain charity game equipment; modifying procedure for disposition of charity game equipment; prohibiting

selling, serving or permitting to be consumed alcoholic or nonintoxicating beverage in room or outdoor area where and during time bingo is conducted; prohibiting organization from conducting more than one session at a location during a calendar day; prohibiting person under age sixteen from playing breakopen ticket game and allowing such person to play other charity games under certain circumstances; authorizing Commission to raise limit paid out during bingo game session and providing procedure for protest thereto; modifying date by which taxes deemed delinquent; modifying discount allowed to licensed distributors and providing certain limitation thereon; requiring Oklahoma Tax Commission to establish procedure to allow tax credit for certain damaged items and equipment; modifying distribution of tax revenues; modifying items and equipment declared to be contraband; authorizing organizations licensed prior to effective date of act to continue to conduct game until license expiration; requiring Alcoholic Beverage Laws Enforcement Commission to promulgate emergency and permanent rules to implement and enforce act; requiring Oklahoma Tax Commission to deliver certain documents to Alcoholic Beverage Laws Enforcement Commission; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 964, is amended to read as follows:

Section 964. A. For the purpose of Sections 964 through 977 of this title, "slot machine" is defined to be:

1. Any machine, instrument, mechanism, or device that operates or may be operated or played mechanically, electrically, automatically, or manually, and which can be played or operated by any person by inserting in any manner into said machine, instrument, mechanism, or device, a coin, chip, token, check, credit, money, representative of value, or a thing of value, and by which play or operation such person will stand to win or lose, whether by skill or chance, or by both, a thing of value; and

2. Any machine, instrument, mechanism, or device that operates or may be played or operated mechanically, electrically, automatically, or manually, and which can be played or operated by any person by paying to or depositing with any person, or by depositing with or into any cache, slot, or place a coin, chip, token, check, credit, money, representative of value, or a thing of value, and by which play or operation such person will stand to

win or lose, whether by skill or chance, or by both, a thing of value. This definition shall not include mechanical crane machines, by which patrons, solely through skill, can retrieve and obtain toys or similar objects, if such toys or similar objects have a value under Ten Dollars (\$10.00).

B. Sections 964 through 977 of this title shall not apply to a slot machine if said machine is twenty-five (25) years or older and is not used for gambling purposes. A slot machine twenty-five (25) years or older which is used for a gambling purpose in violation of the provisions of Section 970 of this title shall be subject to confiscation as provided by Section 973 of this title.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1220, is amended to read as follows:

Section 1220. It shall be unlawful for any person to knowingly transport in any moving vehicle upon a public highway, street or alley any intoxicating or nonintoxicating beverage, as defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, except in the original container which shall not have been opened and from which the original cap or seal shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a station wagon or panel truck, or any outside compartment which is not accessible to the driver or any other person in the vehicle while it is in motion. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than Fifty Dollars (\$50.00). Provided, this section shall not apply in the case of a commercial bus operated in compliance with a valid license, permit or certificate issued under the authority of the United States or this state and designed to carry twenty (20) or more passengers. Provided further, the operator of such vehicle shall not be authorized to possess or consume any such intoxicating or nonintoxicating beverage.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 537, is amended to read as follows:

Section 537. A. No person shall:

1. Knowingly sell, deliver, or furnish alcoholic beverages to any person under twenty-one (21) years of age;

2. Sell, deliver or knowingly furnish alcoholic beverages to an intoxicated person or to any person who has been adjudged insane or mentally deficient;

3. Open a retail container or consume alcoholic beverages on the premises of a retail package store;

4. Import into this state, except as provided for in the Oklahoma Alcoholic Beverage Control Act, any alcoholic beverages; provided, that nothing herein shall prohibit the importation or possession for personal use of not more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax is delinquent;

5. Receive, possess, or use any alcoholic beverage in violation of the provisions of the Oklahoma Alcoholic Beverage Control Act;

6. Transport into, within, or through this state more than one (1) liter of alcoholic beverages upon which the Oklahoma excise tax has not been paid unless the person accompanying or in charge of the vehicle transporting same shall have in his possession a true copy of a bill of lading, invoice, manifest or other document particularly identifying the alcoholic beverages being transported and showing the name and address of the consignor and consignee;

7. Knowingly transport in any vehicle upon a public highway, street or alley any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment in a vehicle commonly known as a station wagon and panel truck, or any outside compartment which is not accessible to the driver or any other person in said vehicle while it is in motion; provided, this paragraph shall not apply in the case of a commercial bus operated in compliance with a valid license, permit or certificate issued under the authority of the United States or

this state, designed to carry twenty (20) or more passengers and a caterer or special event licensee is functioning on board under the authority of his license. Provided further, the operator of such vehicle shall not be authorized to possess or consume any alcoholic beverage;

8. Drink intoxicating liquor in public except on the premises of a licensee of the Alcoholic Beverage Laws Enforcement Commission who is authorized to sell or serve alcoholic beverages by the individual drink or be intoxicated in a public place. This provision shall be cumulative and in addition to existing law;

9. Forcibly resist lawful arrest, or by physical contact interfere with an investigation of any infringement of the Oklahoma Alcoholic Beverage Control Act or with any lawful search or seizure being made by an inspector or agent of the ABLE Commission, when such person knows or should know that such acts are being performed by a state, county, or municipal officer, inspector or agent of the ABLE Commission;

10. Manufacture, duplicate, counterfeit or in any way imitate any bottle club membership card required to be issued by the ABLE Commission without the permission of said Commission;

11. Consume or possess alcoholic beverages on the licensed premises of a bottle club unless such person possesses a valid membership card for that club issued by the club; or

12. Knowingly possess any bottle club membership card required to be issued by the ABLE Commission, which has been manufactured, counterfeited, imitated or in any way duplicated without the permission of said Commission.

B. No licensee of the ABLE Commission shall:

1. Receive, possess, or sell any alcoholic beverage except as authorized by the Oklahoma Alcoholic Beverage Control Act and by the license or permit which he holds;

2. Employ any person under the age of twenty-one (21) in the selling or handling of alcoholic beverages. Provided, that a mixed beverage, caterer, special event or bottle club licensee may employ servers who are eighteen (18) years of age or older, except in designated bar or lounge areas;

3. Give any alcoholic beverage as a prize, premium or consideration for any lottery, game of chance or skill or any type of competition;

4. Advertise or offer "happy hours" or any other means or inducements to stimulate the consumption of alcoholic beverages including:

- a. deliver more than two drinks to one person at one time;
- b. sell or offer to sell to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public;
- c. sell or offer to sell to any person an unlimited number of drinks during any set period of time for a fixed price, except at private functions not open to the public;
- d. sell or offer to sell drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
- e. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week; or
- f. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes.

Provided that the provisions of this paragraph shall not prohibit the advertising or offering of food or entertainment in licensed establishments;

5. Permit or allow any patron or person to exit the licensed premises with an open container of any alcoholic beverage.

Provided, that this prohibition shall not be applicable to closed original containers of alcoholic beverages which are carried from the licensed premises of a bottle club by a patron, closed

original wine containers removed from the premises of restaurants, hotels, and motels, or to closed original containers of alcoholic beverages transported to and from the place of business of a licensed caterer by the caterer or his employee; or

6. Serve or sell alcoholic beverages with an expired license issued by the ABLE Commission.

C. No package store licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a brewer, wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Suffer or permit any retail container to be opened, or any alcoholic beverage to be consumed, on his licensed premises;

3. Sell, or keep package store premises open for the purpose of selling, any alcoholic beverages at any hour other than between the hours of 10:00 a.m. and 9:00 p.m. Monday through Saturday; provided, that no such sales shall be made, or package store premises be allowed to remain open for the purpose of making such sales, on the day of any General, Primary, Runoff Primary or Special Election while the polls are open whether on a national, state, county or city election or on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day;

4. Operate a retail package store unless such store shall be located in a city or town having a population in excess of two hundred (200) according to the latest Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided that acceptance by a retail liquor store of a cash or debit card, or a nationally recognized credit card, in lieu of actual cash payment does not constitute the extension of credit; provided further, as used in this section:

a. "cash or debit card" means any instrument or device whether known as a debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in depositing, obtaining or

transferring funds from a consumer banking
electronic facility,

- b. "nationally recognized credit card" means any instrument or device, whether known as a credit card, credit plate, charge plate or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit which is accepted by over one hundred (100) merchants;

6. Offer or furnish any prize, premium, gift or similar inducement to a consumer in connection with the sale of alcoholic beverage, except that goods or merchandise included by the manufacturer in packaging with alcoholic beverages shall not be included in this prohibition, but no wholesaler or package store shall sell any alcoholic beverage prepackaged with other goods or merchandise at a price which is greater than the price at which the alcoholic beverage alone is sold;

7. Permit any person under twenty-one (21) years of age to enter into, remain within or loiter about the licensed premises;
or

8. Pay for alcoholic beverages by a check or draft which is dishonored by the drawee when presented to such drawee for payment; and the ABLE Commission may cancel or suspend the license of any retailer who has given a check or draft, as maker or endorser, which is so dishonored upon presentation.

D. No wholesaler licensee shall:

1. Sell or deliver any amount of spirits or wines to any package store licensee on Saturday or Sunday; or

2. Sell or deliver any amount of spirits or wines to any package store licensee on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

E. No mixed beverage licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the Oklahoma Alcoholic Beverage Control Act;

2. Transport alcoholic beverages from the place of purchase to his licensed premises unless said licensee also holds a private carrier license issued by the ABLE Commission;

3. Use or allow the use of any mark or label on a container of alcoholic beverage which is kept for sale which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of such beverage;

4. Keep or knowingly permit any alcoholic beverage to be kept, brought or consumed on his licensed premises which is not allowed to be sold or served upon such premises; or

5. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises.

F. No bottle club licensee shall:

1. Use or allow the use of any mark or label on a container of alcoholic beverage which does not clearly and precisely indicate the nature of the contents or which might deceive or conceal the nature, composition, quantity, age or quality of any such beverage;

2. Act as an agent for any bottle club member and purchase any alcoholic beverage for said member;

3. Use or allow the use of any pool system of storage or purchase of alcoholic beverages;

4. Allow any person to enter or remain in the designated bar or lounge area of the club unless that person possesses a valid membership card for that club issued by the club;

5. Sell any alcoholic beverage;

6. Deliver or furnish to any club member any alcoholic beverage that does not belong to said member;

7. Serve alcoholic beverages to any person who does not possess a valid membership card for that club issued by the club;

8. Issue a membership card for the club to a person under twenty-one (21) years of age; or

9. Allow any person under twenty-one (21) years of age to enter into, remain within or loiter about the designated bar area of the licensed premises.

G. No special event or caterer licensee shall:

1. Purchase or receive any alcoholic beverage other than from a person holding a wholesaler or Class B wholesaler license issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act; or

2. Transport alcoholic beverages from the place of purchase to his licensed premises unless said licensee also holds a private carrier license issued by the ABLE Commission.

H. No person operating a cafe, restaurant, club, or any place of recreation shall permit any person to be drunk or intoxicated in said place of business.

SECTION 4. AMENDATORY 37 O.S. 1991, Section 540, is amended to read as follows:

Section 540. A. The Oklahoma Tax Commission shall direct that an inventory be taken of stamped merchandise and tax stamps held by the various manufacturers, nonresident sellers and wholesalers for use in the State of Oklahoma and shall then issue a tax credit to the suppliers in such amount as is evidenced due and owing by the inventory. The wholesalers in the State of Oklahoma shall sell their current supply of stamps to their suppliers and receive a credit for the stamps on current liabilities to their suppliers. The Oklahoma Tax Commission shall adopt rules and regulations essential to the implementation of a reporting method of taxing all alcoholic beverages sold or delivered in this state to eliminate the use of any type of stamps, except stamps authorized by the provisions of Section ~~94 of this act~~ 581 of this title.

B. Every manufacturer or brewer manufacturing or brewing any beer in this state, for sale in this state, and every manufacturer or brewer outside of the state, shipping any beer into this state, shall cause to be printed, ~~in not less than eight point type,~~ upon the large label around and upon the body of each bottle or upon the top or the lid of each can of such beer, ~~the following~~

~~inscription: "Alcoholic content in excess of (3.2%) by weight".~~
~~Such lid or bottle label shall also include the printed word~~
~~"Oklahoma" a symbol or other designation, approved by the Oklahoma~~
~~Tax Commission, that will serve to indicate that the beer has an~~
~~alcoholic content in excess of three and two-tenths percent (3.2%)~~
~~by weight,~~ and such other information as the Oklahoma Tax
Commission may require. Brewers shall be required to submit
samples of crowns, tops and labels to the Oklahoma Tax Commission
for approval.

C. Payment of the excise tax levied by the Oklahoma Alcoholic Beverage Control Act with respect to beer shall be made by the manufacturer or brewer as to all beer produced by such brewer within the state for sale within this state, and shall be made by the importing manufacturer or Class B wholesaler who is the original consignee of beer manufactured or produced outside of this state as to all beer imported into this state by such importing licensee. It is the duty of each Oklahoma licensed brewer with respect to beer produced by such brewer within this state, and of each Oklahoma licensed Class B wholesaler as to beer produced outside of this state and imported into this state by such Class B wholesaler, to pay the excise tax on such beer to the Oklahoma Tax Commission as hereinafter provided.

SECTION 5. Oklahoma Tax Commission permanent Rules 710:95-7-1 through 710:95-7-15, 710:95-7-20 through 710:95-7-24, 710:95-7-30 through 710:95-7-33, 710:95-7-40 through 710:95-7-42, 710:95-7-50, 710:95-7-51 and 710:95-7-100 relating to miscellaneous areas of regulatory and administrative authority with respect to charity games which were adopted by the Oklahoma Tax Commission on March 23, 1993, by Order No. 93-03-23-015 are hereby disapproved by the Oklahoma State Legislature.

SECTION 6. Oklahoma Tax Commission emergency Rules 710:95-7-1 through 710:95-7-25 relating to miscellaneous areas of regulatory and administrative authority with respect to charity games which were adopted by the Oklahoma Tax Commission by Order Nos. 92-12-01-010, 92-12-08-011, 93-02-11-020 and 93-03-18-003 are hereby disapproved by the Oklahoma State Legislature.

SECTION 7. The Secretary of State is hereby directed to distribute copies of Sections 5 and 6 of this act to the Governor, the Oklahoma Tax Commission and the editor of "The Oklahoma Register".

SECTION 8. AMENDATORY Section 3, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 402), is amended to read as follows:

Section 402. As used in the Oklahoma Charity Games Act, Section 401 et seq. of this title:

1. "Bingo" means a game in which each player receives a bingo face and covers the squares according to the numbers, letters, or combination of numbers and letters that have been announced by the caller. 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 which is marked off into any number of squares in any arrangement of rows, with each square being designated by number, letter or combination of numbers and letters and with one or more squares designated as a "free" space with one or more word "Oklahoma" and a facsimile outline of a map of Oklahoma in it, which cannot be reused after the game in which a player has used it is over;

3. "Breakopen ticket card" means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal a number, letter, symbol, or set of letters or symbols, a few of which numbers, letters or symbols out of every set of charity game tickets have been designated in advance at random as prize winners and which is used in a breakopen ticket game;

4. "Breakopen ticket game" means a game wherein a player receives a breakopen ticket card. A breakopen ticket game shall meet the following criteria:

- a. the game shall be assembled so that no placement of winners or losers exists that allows the possibility of prize manipulation,
- b. the concealed numbers, letters, or symbols shall not be visible from the outside of the game using high intensity lamps. Protection shall be provided by the opaque paper stock employed, with the possible addition of colors and printed blackout patterns or by use of an aluminum foil laminate,
- c. a unique symbol or printed security device, such as a specific number keyed to particular winners or the name of the symbol or some of the symbol colors changed for a window, or other similar protection shall be placed in the winning windows of prize windows to ensure that the winner image is unique,
- d. it shall not be possible to detect or pick out winning from losing tickets through variations in printing graphics, color, or use of different printing plates,
- e. it shall not be possible to isolate winning or potential winning tickets from minor variations in size or cutting of the tickets comprising a particular packet, and
- f. each ticket in a game shall have a serial number. All tickets in a game shall have the same serial number appearing in a conspicuous place on the ticket;

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

6. "Charity game" means a bingo game, U-PIK-EM bingo game, or breakopen ticket game conducted by an organization pursuant to the provisions of the Oklahoma Charity Games Act;

7. "Charity game equipment" means any object uniquely designed for use in the conducting of a charity game including but not limited to bingo faces, U-PIK-EM bingo game sets, and breakopen ticket cards. Items used in conducting charity games which are not charity game equipment are ink markers, furniture and general furnishings of rooms where charity games are conducted;

8. "Commission" or "ABLE Commission" means the ~~Oklahoma Tax Commission~~ Alcoholic Beverage Laws Enforcement Commission;

9. "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.;

10. "Deal" means one series of breakopen ticket game cards which have a stated number of winner payouts and a stated amount of the payouts;

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

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

13. "Immediate family member" means a spouse, parent, child or sibling or spouse of a parent, child or sibling of a resident of a facility exempt from specific provisions of the Oklahoma Charity Games Act as provided in subsection C of Section 405 of this title;

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

~~14.~~ 15. "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 organization while conducting a charity game, which are used in connection with or in furtherance of the conducting of a charity game;

~~15.~~ 16. "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;

~~16.~~ 17. "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;

~~17.~~ 18. "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,
- b. has been in existence and been operating as a nonprofit organization for not less than two (2) years prior to applying for an organization license,
- c. is tax exempt pursuant to the provisions of paragraphs (3), (4), (5), (6), (7), (8), (9), (10), or (19) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq., and
- d. formulates bylaws which clearly identify and establish:
 - (1) method of electing officers and their duties,
 - (2) method by which members are elected, initiated or admitted,
 - (3) the rights and privileges of each member,
 - (4) that each member has one vote, and
 - (5) that membership rights are personal to the member and not assignable;

~~18.~~ 19. "U-PIK-EM bingo game" means a game played wherein a player writes the numbers on a U-PIK-EM bingo game set. The player retains one sheet of the set and deposits the second sheet in a ~~locked~~ receptacle in the control of the organization. The player then covers the numbers as the caller announces a number. The numbers 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. The winner of each U-PIK-EM bingo game is the player who first covers all the numbers

appearing on the retained sheet in accordance with the pattern as designated on the sheet; and

~~19.~~ 20. "U-PIK-EM bingo game set" means two paper sheets of carbonless paper both bearing identical serial numbers on which a player writes numbers, wherein one sheet is retained by the player and used for playing and one sheet is held by the organization and used for verifying winners.

SECTION 9. AMENDATORY Section 4, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 403), is amended to read as follows:

Section 403. A. The ABLE 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. Adopt and 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~~ Director 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 organizations~~ such rules, forms and procedures as may be necessary to provide for the collection and remitting of taxes due under the provisions of the Oklahoma Charity Games Act;

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.

C. The members of the Commission, the Director and such agents and inspectors as the Commission appoints in writing shall have all the powers and authority of peace officers of this state for purposes of enforcing the provisions of the Oklahoma Charity Games Act.

D. The Commission shall have the authority to regularly inspect all locations or places of business of licensees and all other persons, firms or corporations dealing in the manufacture, distribution, transportation, sale or service of charity games or charity game equipment within this state. Any officer or employee of the Commission with responsibility for enforcement of the Oklahoma Charity Games Act shall have the power and authority, without a warrant, to enter and examine the location or place of business of any licensee, during normal operating hours thereof, to determine if any violation of the provisions of the Oklahoma Charity Games Act or rules of the Commission is or may be occurring. The right of entry and inspection shall be a condition upon which every license shall be issued and the application for and acceptance of any license hereunder shall conclusively be

deemed to be consent of the applicant and licensee to such entry and inspection. Officers and employees of the Commission or the Oklahoma Tax Commission shall be given free access to and shall not be hindered or interfered with in their examination of the location or place of business of any licensee, and in any case in which such officer or employee is denied free access and entry or is hindered or interfered with in making such examination, any license held for such location or place of business shall be subject to suspension or revocation.

SECTION 10. AMENDATORY Section 6, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 405), is amended to read as follows:

Section 405. A. Any organization which conducts any charity game activities not more than four times per year may obtain an exemption from specific provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title, as provided in this section. Such exemption shall be obtained by the filing of a verified application with the ABLE Commission, signed by the executive officer of said organization ~~stating~~ and containing the following information:

1. The name and address of the organization;
2. The name, address and telephone number of the executive officer of the organization or such other person authorized to receive documents or other information from the Commission on behalf of the organization; and
3. A statement that said organization shall conduct a charity game session four or fewer times per calendar year and the dates and times and location wherein such activities shall occur.

B. Any organization which conducts any charity game activities not more than four 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 but shall not be authorized to use electronic facsimile of faces; ~~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; or

4. Be subject to any restrictions in this act or rules of the Commission relating to conducting charity games on certain days of the week or during certain hours.

~~B.~~ C. Any hospital, nursing home, senior citizens' center, retirement center or convalescent facility which conducts charity games at such facilities on a regular basis for the residents or regular patrons of the facility and their immediate family members may obtain an exemption from specific provisions of the Oklahoma Charity Games Act as provided in this section. Such exemption shall be obtained by the filing of a verified application with the Commission, signed by the owner or supervisor of the facility ~~stating~~ and containing the following information:

1. The name and address of the hospital, nursing home, senior citizens center, retirement center or convalescent facility;

2. The name, address and telephone number of the owner or supervisor of the facility or such other person authorized to receive documents or other information from the Commission or behalf of the facility; and

3. A statement that said facility shall conduct charity games at the specified facility for the residents or regular patrons of the facility and their immediate family members.

~~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 on a weekday between the hours of 1:00 p.m. and 8:00 p.m. No sessions shall be conducted on Sunday, and~~

~~b. Provided, the prizes awarded either in cash or any other thing of value shall not exceed Two Hundred Fifty Dollars (\$250.00) in any one 1:00 p.m. to 8:00~~

~~p.m. period of play~~ (1) day at any such hospital, nursing home, senior citizens' center, retirement center or convalescent facility.

~~2.~~ D. Any hospital, nursing home, senior citizens' center, retirement center or convalescent facility which conducts charity games at such facilities on a regular basis for the residents or regular patrons of the facility or their immediate family members which has obtained an exemption from the Commission shall not:

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

~~b. be~~ 2. Be restricted to the use of bingo faces, as defined in the Oklahoma Charity Games Act but shall not be authorized to use electronic facsimile of faces; ~~or;~~

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

4. Be subject to any restrictions in this act or rules of the Commission relating to conducting charity games on certain days of the week or during certain hours.

SECTION 11. AMENDATORY Section 7, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 406), is amended to read as follows:

Section 406. A. The ABLE Commission shall refuse to issue, deny renewal, suspend, or revoke a distributor license or a manufacturer license for any individual who:

1. Is not a citizen of the United States; or
2. 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.

B. The Commission shall refuse to issue, deny renewal, suspend or revoke a distributor license or a manufacturer license for a partnership if a partner of the partnership 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.

C. The Commission shall refuse to issue a distributor license or a manufacturer license for a corporation which has an officer, director or stockholder owning more than ~~ten percent (10%)~~ fifteen percent (15%) of the corporate stock who 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 12. AMENDATORY Section 8, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 407), is amended to read as follows:

Section 407. A. The ABLE 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. Noncompliance with the tax laws of this state; or
3. Failure to pay any fine levied by the Commission.

B. The Commission may levy fines or 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, Section 401 et seq. of this title. A determination of action on a license pursuant to the provisions of this subsection 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 organization 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.

C. The Commission is hereby authorized to establish a penalty schedule for violations of any provision of the Oklahoma Charity Games Act or for violation of any rule of the Commission. The schedule may provide fines or suspension or revocation or both

finances and suspension or revocation for violations of the act or rules as determined by the Commission. Penalties shall be increasingly severe for each violation.

D. All administrative fines collected by the Commission pursuant to the provisions of this section shall be forwarded to the State Treasurer for deposit in the General Revenue Fund.

SECTION 13. AMENDATORY Section 10, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 409), is amended to read as follows:

Section 409. A. Any person or business entity desiring to sell or supply any charity game equipment to a licensed organization in this state shall apply to the ABLE 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 ~~ten percent (10%)~~ fifteen percent (15%) or more of any class of stock in the corporation; and

3. Such other information deemed necessary by the Commission, by rule, to determine eligibility for a license.

SECTION 14. AMENDATORY Section 11, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 410), is amended to read as follows:

Section 410. A. Any person or business entity desiring to sell or supply charity game equipment to a distributor in this state shall apply to the ABLE 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 equipment;

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 ~~ten percent (10%)~~ fifteen percent (15%) 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 service of process on behalf of the business entity; and

4. Such other information deemed necessary by the Commission, by rule, to determine eligibility for a license.

SECTION 15. AMENDATORY Section 12, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 411), is amended to read as follows:

Section 411. A. An applicant for an original organization, distributor or manufacturer license shall, prior to applying for such license, twice publish, in such form and containing such information as the ABLE Commission shall by rule prescribe, a notice of its intention to apply for such license, once a week for two (2) successive weeks in a legal newspaper of general circulation within the county of the location of the licensee; provided, for an applicant for a distributor or manufacturer license which will distribute or manufacture charity game equipment at more than one location, such notice may be published in a legal newspaper of general circulation within the state. Proof of such publication shall be filed with the Commission.

B. Upon an application for a license being filed with the ABLE 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.~~ C. Applications for any of the licenses provided for in the Oklahoma Charity Games Act, Section 401 et seq. of this title, shall be on such form as designated by the Commission.

SECTION 16. AMENDATORY Section 13, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 412), is amended to read as follows:

Section 412. 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 protester; ~~and~~
4. Contain a concise statement as to why the application is being protested; and
5. Be submitted to the Commission before the license is granted.

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

SECTION 17. AMENDATORY Section 16, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 415), is amended to read as follows:

Section 415. A. Licensed organizations 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, exempt organization, exempt hospital, nursing home, senior citizens' center, retirement center or convalescent facility, ~~or~~ entity of

the United States government, federally recognized Indian tribe or nation or other licensed distributor.

C. Distributors shall purchase or otherwise obtain charity game equipment only from manufacturers or other distributors licensed pursuant to the provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title.

D. Manufacturers shall sell charity game equipment in this state only to distributors licensed pursuant to the provisions of the Oklahoma Charity Games Act or federally recognized Indian tribes or nations.

E. Charity game equipment owned by an organization may be disposed of by selling it or giving it away to another organization, an exempt organization, or exempt hospital, nursing home, senior citizens' center, retirement center or convalescent facility, with the written permission of the Director of the ABLE Commission and with proper notification to the Oklahoma Tax Commission.

SECTION 18. AMENDATORY Section 18, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 417), is amended to read as follows:

Section 417. 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 bingo is being conducted.

SECTION 19. AMENDATORY Section 19, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 418), is amended to read as follows:

Section 418. A. No charity game shall be conducted on the first day of the week, commonly known and designated as Sunday.

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

C. ~~Not~~ An organization shall not conduct more than one session ~~shall be conducted~~ at a location during a calendar day.

D. No person under sixteen (16) years of age shall play breakopen ticket games. Any person under the age of sixteen (16) may play charity games other than breakopen ticket games when accompanied by a parent or guardian if such play is permitted by the organization conducting the charity game.

SECTION 20. AMENDATORY Section 20, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 419), is amended to read as follows:

Section 419. A. In the conducting of a bingo game or a U-PIK-EM bingo game, not more than a total of Six Thousand Dollars (\$6,000.00) in cash or any other thing of value shall be paid out during a day session or a night session; provided, the ABLE Commission may, in its discretion, raise the limit of Six Thousand Dollars (\$6,000.00) for an individual organization licensee. Any person may protest the raising of the limit by filing a written and signed protest with the Commission. Within thirty (30) calendar days of the date of receipt of such protest, the Commission shall conduct a hearing on such protest. 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.

B. The Commission is hereby authorized to set the limits on the type and purchase price of each breakopen ticket game. Such breakopen ticket card price limit shall not exceed Two Dollars (\$2.00). A breakopen ticket game shall be submitted by the manufacturer to the Commission for approval. Only approved breakopen ticket games may be offered to an organization.

SECTION 21. AMENDATORY Section 23, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 422), is amended to read as follows:

Section 422. A. All taxes levied pursuant to the provisions of ~~Section 22 of the Oklahoma Charity Games Act~~ 421 of this title shall be collected and remitted by the distributor to the Oklahoma Tax Commission.

B. 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.

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

D. The taxes shall be due and paid monthly, and shall be deemed delinquent if not paid ~~within ten (10) calendar days~~ on or before the fifteenth day of the month following the month during which the items were sold to an organization.

E. Charity game equipment taxed pursuant to the provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title, shall be exempt from taxation pursuant to any other law of this state levying a sales tax, consumers tax, or use tax.

F. A licensed distributor shall be allowed a discount of ~~one-tenth of one percent (1/10 of 1%)~~ one percent (1%) of the taxes due pursuant to the provisions of the Oklahoma Charity Games Act as remuneration for establishing and maintaining the records required by the ABLE Commission and the Oklahoma Tax Commission and for collecting such tax for the benefit of the state, if such tax is timely reported and remitted; provided, the discount provided by this section shall be limited to Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor and any amount in excess of Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor shall be retained by the state as an administrative expense and deposited to the General Revenue Fund. If the tax becomes delinquent, the licensed distributor forfeits any claim to the remuneration.

G. The Oklahoma Tax Commission shall, by rule, establish a procedure by which a licensed distributor shall be allowed a credit against subsequent tax liability for damaged bingo faces, U-PIK-EM bingo game sets, breakopen ticket games or charity game equipment upon which the tax required by this act has been paid and by which the distributor shall reimburse the organization which purchased such damaged bingo faces, U-PIK-EM bingo game

sets, breakopen ticket games or charity game equipment for the tax paid by such organization.

H. The Oklahoma Tax Commission shall devise such tax reporting forms as necessary.

SECTION 22. AMENDATORY Section 24, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 423), is amended to read as follows:

Section 423. ~~A.~~ The revenues collected by the Oklahoma Tax Commission pursuant to ~~subsection A of Section 22~~ 421 of this ~~act~~ title shall be ~~distributed as follows:~~

~~1. Ninety-five percent (95%) 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; and~~

~~2. Five percent (5%) shall be placed in the Oklahoma Tax Commission Fund for use by the Commission to be used in implementing and enforcing the provisions of the Oklahoma Charity Games Act.~~

~~B. All of the revenues collected by the Commission pursuant to subsections B and C of Section 22 of this act shall be paid monthly by the Commission to be placed in the General Revenue Fund, to be paid out pursuant to direct appropriation by the Legislature.~~

SECTION 23. AMENDATORY Section 27, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 426), is amended to read as follows:

Section 426. A. On and after January 1, 1993, any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards that are not purchased from a licensed distributor are declared to be contraband, unless such items are:

1. Purchased by an exempt organization, exempt hospital, nursing home, senior citizens' center, retirement center or convalescent facility;

2. Purchased by a federally recognized Indian tribe or nation; or

3. Sold or given by a licensed organization to another licensed organization, an exempt organization, or exempt hospital, nursing home, senior citizens' center, retirement center or convalescent facility, if written permission is obtained from the Director of the ABLE Commission and proper notification is given to the Oklahoma Tax Commission.

B. On and after January 1, 1993, any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards sold or offered for sale by a business entity which is not a licensed distributor is declared to be contraband.

C. Any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards which were not in the possession of an organization or business entity on December 31, 1992, on which the taxes have not been paid are declared to be contraband unless the items are being transported through this state from another state to be sold or distributed in another state.

D. On and after January 1, 1993, any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards 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, Section 401 et seq. of this title, shall be declared contraband.

E. Such contraband 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 any such item 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 alleged contraband shall apply to the district court for an order forfeiting the alleged contraband and directing its destruction;

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

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

SECTION 24. AMENDATORY Section 28, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1992, Section 427), is amended to read as follows:

Section 427. A. 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. Any organization which holds an unexpired license to conduct a bingo game issued by the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title, prior to the effective date of this act is authorized to continue conducting such licensed game until the expiration date of said license.

1. 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 ~~9~~ 408 of this ~~act~~ title by March 1, 1993.

2. 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 organizations which did not have a license to conduct bingo games on December 1, 1992.

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

B. Applicants for an organization license or a distributor license which have charity game equipment may submit a full and complete inventory of such equipment in the form of a sworn affidavit of the total amount of charity game equipment in each tax category in the possession of the applicant to the Oklahoma Tax Commission on or before December 31, 1992.

1. Before December 31, 1992, and upon receipt of said sworn affidavit of inventory, the Oklahoma Tax Commission shall provide

the applicant with a stamp or seal, in a manner to be determined by the Oklahoma Tax Commission for marking the charity game equipment which will be exempt from the tax provisions of the Oklahoma Charity Games Act.

2. After December 31, 1992, all charity game equipment shall be subject to the taxes and contraband provisions of the Oklahoma Charity Games Act.

C. ~~Upon passage and approval of the Oklahoma Charity Games Act~~ After the effective date of this act, the ABLE Commission shall promulgate such emergency rules as deemed necessary ~~to issue licenses and collect taxes pursuant to the provisions of said act~~ for implementation and enforcement of the Oklahoma Charity Games Act. The Commission shall promulgate permanent rules necessary for implementation and enforcement of the Oklahoma Charity Games Act for submission to the Legislature at the beginning of the next regular legislative session.

D. The Oklahoma Tax Commission shall immediately deliver to the ABLE Commission all books, papers, records, computer tapes and other property of the Oklahoma Tax Commission which pertain to the licensing and enforcement of the Oklahoma Charity Games Act.

SECTION 25. Sections 1 through 4 and 8 through 24 of this act shall become effective July 1, 1993.

SECTION 26. 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.