

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 899

By: Littlefield of the
Senate

and

Fields, Hutchison and
Weaver of the House

An Act relating to amusements and sports; amending
Section 3, Chapter 328, O.S.L. 1992, as amended by
Section 3, Chapter 305, O.S.L. 1993, Sections 5 and
9, Chapter 328, O.S.L. 1992, Section 18, Chapter
328, O.S.L. 1992, as amended by Section 1, Chapter
274, O.S.L. 1995 and Section 22, Chapter 328,
O.S.L. 1992 (3A O.S. Supp. 1995, Sections 402, 404,
408, 417 and 421), which relate to the Oklahoma
Charity Games Act; modifying definitions and
defining terms; * * * providing for codification;
providing an effective date; and declaring an
emergency.

AUTHORS: Add the following House Coauthors: Mass and Bastin

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

"An Act relating to amusements and sports; amending Section
3, Chapter 328, O.S.L. 1992, as amended by Section 3,
Chapter 305, O.S.L. 1993, Sections 5 and 9, Chapter 328,
O.S.L. 1992, Section 18, Chapter 328, O.S.L. 1992, as
amended by Section 1, Chapter 274, O.S.L. 1995 and Section
22, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1995, Sections
402, 404, 408, 417 and 421), which relate to the Oklahoma
Charity Games Act; modifying definitions and defining
terms; providing for licensing of certain employees of
organizations conducting charity games; specifying license
fees; providing for special promotional games and
specifying limitations thereon; limiting conduct of

charity games to certain persons; modifying information required to be filed with application for organization license; requiring Alcoholic Beverage Laws Enforcement Commission to refuse to issue license to certain persons; clarifying games which may be conducted in locations where alcoholic beverage may be sold, served or permitted to be consumed; modifying games upon which certain taxes levied; providing additional method of remitting taxes due; providing procedures therefor; requiring Tax Commission to prescribe certain forms and promulgate certain rules; amending 21 O.S. 1991, Section 981, as amended by Section 31, Chapter 328, O.S.L. 1992 (21 O.S. Supp. 1995, Section 981), which relates to definitions concerning gambling activities; modifying definitions; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 328, O.S.L. 1992, as amended by Section 3, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1995, 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 blockout 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 played at the same location as a bingo game or U-PIK-EM bingo 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 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. "Employee" means a person who works for compensation in a licensed charity game establishment;

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

~~15.~~ 16. "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;

~~16.~~ 17. "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;

~~17.~~ 18. "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;

~~18.~~ 19. "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 within the State of Oklahoma 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;

19. 20. "Progressive game" means a game in which prizes are allowed to be carried over and increased from session to session;

21. "Special promotional game" means a bingo game which:

- a. requires a separate single sheet which is sealed for security,
- b. requires preposting of forty-five to fifty numbers prior to the first game of the session, and
- c. allows for sale of the special promotional game sheets throughout the session;

22. "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 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

~~20.~~ 23. "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 2. AMENDATORY Section 5, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1995, Section 404), is amended to read as follows:

Section 404. A. 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.

B. A license issued by the Commission shall not be transferable, sold, leased or assigned under any circumstances.

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

1. Organization License - One Hundred Dollars (\$100.00);
2. Distributor License - Five Thousand Dollars (\$5,000.00); ~~and~~
3. Manufacturer License - Two Thousand Dollars (\$2,000.00); and
4. Employee License - Five Dollars (\$5.00).

D. All fees received by the Commission pursuant to this section shall be forwarded to the State Treasurer for deposit in the General Revenue Fund.

SECTION 3. AMENDATORY Section 9, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1995, Section 408), is amended to read as follows:

Section 408. A. Any organization desiring to conduct a charity game in this state shall apply to the Commission for an organization license. An organization license shall only be issued to an organization. A business entity shall not be qualified under any conditions to hold an organization license.

B. An organization shall be limited to only one license and to doing business at only one location.

C. An organization shall use only disposable bingo faces purchased from a licensed distributor. Only one game shall be played on each bingo face; provided:

1. A special promotional game may be played five times per session and offer a combination of winners not to exceed five prizes; and

2. Nothing in this section shall be deemed to exclude progressive games if the prize limit per session is not exceeded.

D. Only an organization or a ~~person paid by~~ licensed employee of an organization shall conduct a charity game for which a charge is made. Compensation paid to an organization or other person for conducting a charity game shall not exceed two times the amount of the minimum wage specified pursuant to federal law. A compensated employee of an organization shall be required to obtain an employee license from the Commission.

E. An initial application for an organization 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~~ The 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 the license was authorized;

6. The name and address of a person authorized to receive service of process on behalf of the organization;

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

8. A copy of the lease agreement for the premises of its charity game activities and for any charity game equipment which it leases; and

9. 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 organization 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 407.1 of Title 3A, unless there is created a duplication in numbering, reads as follows:

The ABLE Commission shall refuse to issue a license to any person who has been convicted of a felony, unless subsequently being granted a full pardon for said felony, of any state or federal law. If the ABLE Commission finds that any current licensee has been convicted of a felony, unless subsequently being granted a full pardon for said felony, of any state or federal law, the ABLE Commission shall revoke such license.

SECTION 5. AMENDATORY Section 18, Chapter 328, O.S.L. 1992, as amended by Section 1, Chapter 274, O.S.L. 1995 (3A O.S. Supp. 1995, 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 low-point beer 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~~ bingo, U-PIK-EM bingo, or breakopen ticket game is being conducted.

1992 (3A O.S. Supp. 1995, Section 421), is amended to read as follows:

Section 421. A. There is hereby levied a tax in the amount of one and one-half cent (\$0.015) upon each bingo face, each special promotional game sheet, each progressive game sheet and each U-PIK-EM bingo game set sold in this state to be paid by the distributor, except as otherwise provided in subsection D of this section.

B. There is hereby levied upon each breakopen ticket game sold in this state a tax in the amount of ten percent (10%) on the gross receipts of the retail sales value to be paid by the distributor, except as otherwise provided in subsection D of this section. For purposes of this subsection, "gross receipts of the retail sales value" means the stated retail per breakopen ticket price multiplied by the number of tickets in each packaging container of breakopen tickets.

C. There is hereby levied upon all charity game equipment except bingo faces, special promotional game sheets, U-PIK-EM bingo game sets, and breakopen ticket games a tax in the amount of ten percent (10%) of the price paid for such equipment as shown on the purchase invoice.

D. An organization licensed to conduct charity games at a location at which the seating capacity to play charity games is less than one hundred persons, as determined by the ABLE Commission, may, in lieu of paying the distributor for the taxes levied pursuant to subsections A and B of this section, remit monthly an equivalent amount of tax to the Oklahoma Tax Commission. The tax shall be due not later than the fifteenth day of each month as and in the manner that sales taxes are deemed due pursuant to the Oklahoma Sales Tax Code, Section 1350 et seq. of Title 68 of the Oklahoma Statutes, and shall be based upon the amount of charity game activity conducted during the preceding month. Every distributor selling bingo faces,

special promotional game sheets, progressive game sheets, U-PIK-EM bingo game sets and breakopen ticket games upon which the taxes levied pursuant to subsections A and B of this section have not been paid shall report such sales and the purchaser thereof to the Tax Commission. The Tax Commission shall prescribe forms and promulgate rules to implement the provisions of this subsection.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 981, as amended by Section 31, Chapter 328, O.S.L. 1992 (21 O.S. Supp. 1995, 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 also is a transaction in which a participant is required or encouraged to purchase a good or service of inconsequential value in order to obtain a gift or prize. 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 charity game conducted pursuant to the provisions of the Oklahoma Charity Games Act ~~or~~ 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. In any case there must be notice given to all participants by the promoter or employee or agent of the promoter, at the point of the transaction, that payments or purchases are not required for participation in the transaction. 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 8. This act shall become effective July 1, 1996."

Passed the House of Representatives the 17th day of April, 1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate