

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 459

By: Helton and Littlefield of
the Senate

and

Voskuhl, Kirby, Sadler,
Fields, Weaver, Pope
(Clay) and Lindley of the
House

COMMITTEE SUBSTITUTE

An Act relating to amusements and sports; amending

Sections 3 and 4, Chapter 328, O.S.L. 1992, as amended by Sections 3 and 4, Chapter 305, O.S.L. 1993, Section 5, Chapter 328, O.S.L. 1992, Sections 6 and 8, Chapter 328, O.S.L. 1992, as amended by Sections 5 and 6, Chapter 305, O.S.L. 1993, Sections 9, 10 and 11, Chapter 328, O.S.L. 1992, Sections 12 and 16, Chapter 328, O.S.L. 1992, as amended by Sections 7 and 9, Chapter 305, O.S.L. 1993, Section 18, Chapter 328, O.S.L. 1992, as amended by Section 1, Chapter 274, O.S.L. 1995, Section 19, Chapter 328, O.S.L. 1992, as amended by Section 10, Chapter 305, O.S.L. 1993, Sections 21 and 22, Chapter 328, O.S.L. 1992, Section 23, Chapter 328, O.S.L. 1992, as amended by Section 12, Chapter 305, O.S.L. 1993, Section 25, Chapter 328, O.S.L. 1992, and Section 27, Chapter 328, O.S.L. 1992, as amended by Section 14, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Sections 402, 403, 404,

405, 407, 408, 409, 410, 411, 415, 417, 418, 420, 421, 422, 424 and 426), which relate to the Oklahoma Charity Games Act; modifying definitions and defining terms; clarifying terms; stating legislative intent; prohibiting commercial operations of charity games; modifying authority of Alcoholic Beverage Laws Enforcement Commission; providing that license not renewed within 30 days of expiration not be subject to renewal; prohibiting issuance of charity games license to certain persons and providing for revocation of licenses previously issued to such persons; providing for licensing of certain employees and managers conducting charity games; specifying license fees; applying certain provisions to charitable organizations; allowing exemption from certain provisions for certain educational organizations; modifying reasons for which ABLE Commission may levy fines or refuse to issue, deny renewal of, suspend or revoke license; specifying certain requirements of charitable organization licensees; requiring license revocation upon determination that commercial operations of charity games are being conducted; requiring inoperative licenses to be surrendered to Commission with certain report; restricting use of license to charitable organizations and prohibiting business entity from using a charitable organization license; allowing progressive games to be played; restricting conducting of charity games to certain persons; modifying provisions relating to compensation of persons conducting charity games

and providing that all other applicable laws be strictly obeyed; requiring designation of manager; requiring certain information to be reported to ABLE Commission; providing that manager be held responsible for certain violations; modifying contents of license applications; modifying method of disposing of charity game equipment by a charitable organization; modifying restrictions on serving alcoholic beverage or low-point beer; deleting prohibition against conducting more than one session at a location each calendar day; prohibiting sales of property services in certain manner; modifying tax on bingo faces and bingo games sold in this state; requiring certain persons or organizations to obtain Oklahoma sales tax permit; modifying procedure for payment of taxes; requiring certain reports; specifying duties of Oklahoma Tax Commission; repealing Section 20, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 419), which relates to prize limitations; 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. 1996, 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~~ the 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~~ means a person, company, corporation, or partnership organized for profit;

6. "Charitable organization" means a religious, charitable, labor, fraternal, educational, veterans or other type of association, including a branch, lodge, chapter, post or auxiliary of such association which:

- a. operates without profit to its members or any entity thereof,
- b. has been in existence, has been registered with the Secretary of State, the ABLE Commission or the

Oklahoma Tax Commission as a nonprofit organization and has been operating as a nonprofit organization for not less than two (2) years prior to applying for an organization license pursuant to the Oklahoma Charity Games Act,

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) the method of electing officers and their duties,
- (2) the 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;

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

~~7.~~ 8. "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.~~ 9. "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~~ a charitable organization;

12. "Doing business" means either conducting a charity game by ~~an~~ a charitable organization or providing goods or services to ~~an~~ a charitable 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, charitable 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 charitable organization while conducting a charity game, which are used in connection with or in furtherance of the conducting of a charity game;

~~16.~~ 17. "Manager" means a person who:

a. works for compensation in a licensed charity game establishment,

b. has supervisory authority over other employees or over the conduct of charity games, and

c. has been designated as such by the charitable organization pursuant to the provisions of subsection D of Section 408 of this title;

18. "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. "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. "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;~~~~

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

20. "Session" means the time frame within which conducting of charity games is authorized, beginning no earlier than 10:00 a.m. and ending no later than midnight of the same day;

21. "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 charitable 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.~~ 22. "U-PIK-EM bingo game set" means two paper sheets of carbonless paper both bearing identical serial numbers on which a player writes numbers or letters, wherein one sheet is retained by the player and used for playing and one sheet is held by the charitable organization and used for verifying winners.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 401.1 of Title 3A, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature that charity games be conducted by and for the sole benefit of charitable organizations and that commercial operations of charity games be prohibited. Commercial operations of charity games shall be deemed to have occurred if any monies derived from charity games, over and above the actual and necessary expenses of conducting the charity games, are used for purposes other than the specified purposes of the charitable organization licensee.

SECTION 3. AMENDATORY Section 4, Chapter 328, O.S.L. 1992, as amended by Section 4, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 403), is amended to read as follows:

Section 403. A. The ABLE Commission shall be the licensing authority for the licensing of charitable 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 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 charitable organizations;

9. Conduct all hearings including actions on investigations, issuance, denial, revocation, or suspension of a license, and 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 as the Commission appoints 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 that conduct charity games 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 4. AMENDATORY Section 5, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, 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. If a license issued pursuant to the provisions of the Oklahoma Charity Games Act is not renewed within thirty (30) days of the date of expiration, it shall not be subject to renewal. An application for renewal of such a license shall be treated as an application for an initial license.

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

C. A license shall not be issued to any charitable organization if an officer thereof has been convicted of or pled guilty or nolo contendere to any felony, or a misdemeanor related to gambling or gaming, pursuant to the laws of the United States, the District of Columbia or any state or territory of the United States. A license shall not be issued to any person who has been convicted of or pled guilty or nolo contendere to any felony, or a misdemeanor related to gambling or gaming, pursuant to the laws of the United States, the District of Columbia or any state or territory of the United States. A license issued to any person or charitable organization specified in this subsection prior to the effective date of this act shall be revoked by the ABLE Commission on the effective date of this act.

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

1. Charitable 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);
4. Employee License - Fifteen Dollars (\$15.00); and
5. Manager License - Fifty Dollars (\$50.00).

~~D.~~ E. 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 5. AMENDATORY Section 6, Chapter 328, O.S.L. 1992, as amended by Section 5, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 405), is amended to read as follows:

Section 405. A. Any charitable organization, or any educational organization which is exempt from taxation pursuant to the provisions of Section 509(a) (1) of the Internal Revenue Code, 26 U.S.C., Section 509(a) (1), 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 the~~ charitable organization or educational organization 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~~ the 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~~ specified in subsection A of this section 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;

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~~ the Oklahoma Charity Games Act or rules of the Commission relating to conducting charity games on certain days of the week or during certain hours.

C. Any hospital, nursing home, residential care facility, 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 and containing the following information:

1. The name and address of the hospital, nursing home, residential care facility, 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 on 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. 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) day at any such hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility.

D. Any hospital, nursing home, residential care facility, 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:

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;

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 the Oklahoma Charity Games Act or rules of the Commission relating to conducting charity games on certain days of the week or during certain hours.

SECTION 6. AMENDATORY Section 8, Chapter 328, O.S.L. 1992, as amended by Section 6, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 407), is amended to read as follows:

Section 407. A. The ABLE Commission shall refuse to issue, deny renewal of, 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 of, 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; or
3. Failure to implement an order of the Commission~~†.~~

~~4. Failure by an organization to~~

C. Each charitable organization licensee shall be required:

1. To provide adequate internal ~~control~~ controls, documents and written policies and procedures in accordance with ~~the rules for~~ such control established adopted by the Commission; ~~or~~

~~5. Failure to~~ 2. To keep an adequate record-keeping system, daily records and monthly financial ~~records~~ reports in accordance with ~~the standard system established~~ rules adopted by the Commission;

3. To deposit all funds into a financial institution located within this state in an account specifically designated as the bingo bank account; provided, if the bylaws of a licensed charitable organization conflict with the requirements of this paragraph, the Commission may waive or modify such requirements. Disbursements for all expenses except the awarding of prizes shall be paid from the

designated bingo bank account by check or electronic transfer. No funds shall be expended from the bingo bank account unless the funds satisfy both authorized charitable purpose use and lawful purpose use as determined under the laws of this state;

4. To submit to the Commission an annual audit of its financial statements for its charity game operations within ninety (90) days of the end of the charitable organization's fiscal year. The audit must be conducted in accordance with generally accepted auditing standards. The audit shall include any other procedures or testing for compliance with state laws and rules as recommended, requested or adopted by the Commission. In addition, the charitable organization must submit a copy of its IRS Form 990 or Form 990T - Return of Organization Exempt from Income Tax. If the charitable organization has not completed the audit within five (5) months and fifteen (15) days of the end of its fiscal year and has appropriately filed a timely extension with the Internal Revenue Service for submission of IRS Form 990 or Form 990T, then the annual audit must be submitted by the date indicated by the extension or the actual date of filing the IRS Form 990 or Form 990T, whichever occurs first. In such event, the charitable organization shall be required to submit a copy of its extension within five (5) months and fifteen (15) days of the end of its fiscal year; and

5. To submit an annual statement of "disposition of funds", which shall include a complete description of how the funds were used and the responsible party within the organization which accepted the funds. If funds are transferred out of the bingo bank account of the charitable organization, the disbursement from the account that received the funds generated from the charity game activity shall be reported and the records relating to such disbursement shall be subject to examination by the Commission.

6. D. 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 fines and suspension or revocation for violations of the act or rules as determined by the Commission. Penalties shall be increasingly severe for each violation. If the Commission determines that commercial operations of charity games are being conducted in violation of the provisions of Section 2 of this act, it shall be required to revoke the organization's license.

~~D.~~ E. 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.

F. All licenses which have expired and not renewed, or which have been suspended or revoked by the Commission, shall be immediately surrendered to the Commission with a schedule of income and expense report.

SECTION 7. AMENDATORY Section 9, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, Section 408), is amended to read as follows:

Section 408. A. Any charitable organization desiring to conduct a charity game in this state shall apply to the ABLE Commission for ~~an~~ a charitable organization license. ~~An~~ A charitable organization license shall only be issued to ~~an~~ a charitable organization and shall be used by that charitable organization only. A business entity shall not be qualified under any conditions to hold ~~an~~ or use a charitable organization license.

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

C. ~~An~~ A charitable organization shall use only disposable bingo faces purchased from a licensed distributor. Only one game shall be played on each bingo face; provided, nothing in this section shall be construed to exclude progressive games.

D. Only ~~an~~ a licensed charitable organization or a person paid by an licensed employee or manager of a charitable organization shall conduct a charity game for which a charge is made. Compensation may be paid to an organization or other person for conducting a charity game. Compensation for conducting charity games shall be paid in accordance with minimum wage provisions of federal law, and shall not exceed two times the amount of the minimum wage specified pursuant to federal law. All other applicable local, state and federal laws relating to employment shall also be strictly obeyed by the licensed charitable organization and employees thereof including, but not limited to, the reporting and remittance of local, state and federal taxes. A compensated employee or manager of a charitable organization shall be required to obtain an employee or manager license from the Commission. Every charitable organization licensee pursuant to the Oklahoma Charity Games Act shall designate one person to be manager of its charity gaming operations and shall report the name and address of its manager, if such manager is compensated for such service, to the ABLE Commission. Each such charitable organization shall report a change in managers, if such managers are compensated for such service, to the Commission on the first working day after such change is made and receive approval from the Commission for the change. The manager shall be held responsible for any violation of the Oklahoma Charity Games Act or any rule of the Commission and for any act of his or her servant, agent, employee or representative in violation of any law or rule.

E. An initial application for ~~an~~ a charitable organization license shall be sworn and attested to by a principal officer of the applicant charitable 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 charitable organization;

3. A copy of the bylaws of the charitable organization;

4. A copy of the minutes of the meeting of the charitable 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 charitable 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 charitable organization;

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

8. A copy of the lease agreement, deed or other documentation of right to occupancy, for the premises of its charity game activities and the lease agreement 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~~ A charitable 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 8. AMENDATORY Section 10, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, 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 charitable 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%) or more of any class of stock in the corporation; and

3. If the applicant is a person who is not a resident of this state or a business entity not located in this state, the full name, business address and home address of the person who is a resident of this state, or the full name and address of a domestic corporation located in this state, or the full name and address of a foreign corporation authorized to transact business in this state pursuant to Section 1130 of Title 18 of the Oklahoma Statutes, who or which is authorized to receive service of process on behalf of the applicant.

SECTION 9. AMENDATORY Section 11, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, 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%) or more of any class of stock in the corporation; and

3. If the applicant is a foreign manufacturer and is also a corporation, a certificate of good standing from the Office of the Secretary of State, issued within sixty (60) days prior to filing the application pursuant to Section 1130 of Title 18 of the Oklahoma Statutes. If, however, the foreign manufacturer is a corporation excepted from qualifying to do business in this state pursuant to Section 1132 of Title 18 of the Oklahoma Statutes or is not a corporation, then the foreign manufacturer shall supply the Commission with the full name, business address, and home address of the person who is a resident of this state, or the full name and address of a domestic corporation located in this state, or the full name and address of a foreign corporation authorized to transact business in this state, who or which is authorized to receive service of process on behalf of the business entity.

SECTION 10. AMENDATORY Section 12, Chapter 328, O.S.L. 1992, as amended by Section 7, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 411), is amended to read as follows:

Section 411. A. An applicant for an initial charitable organization 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. 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. and

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

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 11. AMENDATORY Section 16, Chapter 328, O.S.L. 1992, as amended by Section 9, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 415), is amended to read as follows:

Section 415. A. Licensed charitable 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~~ a charitable organization, exempt organization, exempt hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility, 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~~ a charitable organization may be disposed of ~~by selling it or giving it away to another organization, an exempt organization, or exempt hospital, nursing home, residential care facility, 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, as follows:

1. By selling the equipment or giving it away to another charitable organization, an exempt organization, or exempt hospital, nursing home, residential care facility, senior citizens' center, retirement center or convalescent facility; or

2. By selling the equipment or trading it in on the purchase of other charity game equipment to a distributor licensed pursuant to the provisions of the Oklahoma Charity Games Act.

SECTION 12. AMENDATORY Section 18, Chapter 328, O.S.L. 1992, as amended by Section 1, Chapter 274, O.S.L. 1995 (3A O.S. Supp. 1996, Section 417), is amended to read as follows:

Section 417. No licensed charitable 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 or U-PIK-EM game is being conducted.

SECTION 13. AMENDATORY Section 19, Chapter 328, O.S.L. 1992, as amended by Section 10, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, 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. ~~An organization shall not conduct more than one session at a location during a calendar day.~~

~~D.~~ No person under eighteen (18) years of age shall play breakopen ticket games; provided, any person under the age of eighteen (18) may play charity games other than breakopen ticket games when accompanied by a parent or guardian if such play is permitted by the charitable organization conducting the charity game.

D. No charitable organization licensee, manager or employee shall sell any tangible property or services in connection with operations of charity games in any manner in which the purchaser incurs a debt to the charitable organization or to any of its members or employees.

SECTION 14. AMENDATORY Section 21, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, Section 420), is amended to read as follows:

Section 420. Any person, charitable organization or business entity selling food, drink, or any other product subject to sales tax at any charity game location shall be required to obtain an Oklahoma sales tax permit prior to such sale.

SECTION 15. AMENDATORY Section 22, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, 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)~~ one cent (\$0.01) upon each bingo face and each U-PIK-EM bingo game set sold in this state ~~to be paid by the distributor.~~

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.~~ 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, 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. A charitable organization licensed to conduct charity games shall remit monthly to the Oklahoma Tax Commission an amount of tax based upon the amount of charity game activity conducted during the preceding month. The tax shall be due not later than the last 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 deemed delinquent if not paid by such date. Any such charitable organization shall be required to obtain an Oklahoma sales tax permit prior to the first such payment. The Tax Commission shall prescribe forms and promulgate rules to implement the provisions of this subsection.

SECTION 16. AMENDATORY Section 23, Chapter 328, O.S.L. 1992, as amended by Section 12, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 422), is amended to read as follows:

Section 422. A. All taxes levied pursuant to the provisions of Section 421 of this title shall be collected and remitted by the ~~distributor~~ charitable organization licensee 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 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. C.~~ A licensed ~~distributor~~ charitable organization shall be allowed a discount of 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~~ charitable organization and any amount in excess of Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed ~~distributor~~ charitable organization 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~~ charitable organization forfeits any claim to the remuneration.

~~G. D.~~ The Oklahoma Tax Commission shall, by rule, establish a procedure by which a licensed ~~distributor~~ charitable organization 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 the Oklahoma Charity Games Act prior to the effective date of 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. E.~~ ~~Effective July 1, 1993, the~~ The Oklahoma Tax Commission shall devise only such tax reporting forms as necessary for tax collection pursuant to the Oklahoma Charity Games Act and shall

promulgate and enforce only such rules as are necessary to provide for the collection, remitting and verification of payment of taxes by ~~distributor~~ charitable organizations as required by this section.

~~I.~~ F. The Oklahoma Tax Commission shall have the authority to enter the licensed premises of any licensee to verify compliance with the taxation provisions of the Oklahoma Charity Games Act.

SECTION 17. AMENDATORY Section 25, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1996, Section 424), is amended to read as follows:

Section 424. Any person or persons convicted of violating the provisions of the Oklahoma Charity Games Act shall be guilty of a misdemeanor punishable by incarceration for a period of not less than six (6) months, 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 incarceration~~ One Thousand Dollars (\$1,000.00).

SECTION 18. AMENDATORY Section 27, Chapter 328, O.S.L. 1992, as amended by Section 14, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 426), is amended to read as follows:

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

1. Purchased by an exempt charitable organization, exempt educational organization, exempt hospital, nursing home, residential care facility, 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 charitable organization to another licensed charitable organization, an exempt charitable or educational organization, or exempt hospital, nursing home, residential care facility, 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~~ 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~~ are 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~~ Any bingo faces, U-PIK-EM bingo game sets, or breakopen ticket cards in the possession of ~~an~~ a charitable 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.~~ D. 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 19. REPEALER Section 20, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1996, Section 419), is hereby repealed.

SECTION 20. This act shall become effective November 1, 1997.

46-1-7277

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