

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2067

By: Rice of the House

and

Littlefield, Muegge and
Crutchfield of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to amusements and sports; amending Section 3, Chapter 328, O.S.L. 1992, as last amended by Section 1, Chapter 280, O.S.L. 1997, Section 4, Chapter 328, O.S.L. 1992, as amended by Section 4, Chapter 305, O.S.L. 1993, Section 16, Chapter 328, O.S.L. 1992, as last amended by Section 8, Chapter 280, O.S.L. 1997, Section 19, Chapter 328, O.S.L. 1992, as last amended by Section 10, Chapter 280, O.S.L. 1997, Section 20, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 305, O.S.L. 1993, and Section 27, Chapter 328, O.S.L. 1992, as amended by Section 14, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1999, Sections 402, 403, 415, 418, 419 and 426), which relate to the Oklahoma Charity Games Act; deleting and modifying definitions; modifying powers and duties of ABLE Commission; providing procedures for the return of unused and unpurchased breakopen ticket cards to the distributor; eliminating prohibitions relating to the hours of conducting charity games and the number of sessions at a location; eliminating limits on cash or any other thing of value paid out in the conducting of bingo games; allowing the ABLE Commission to hold a forfeiture hearing; requiring certain notice by certified mail; providing for notice by publication under certain circumstances; allowing the Director of the ABLE Commission to destroy seized contraband; 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 last amended by Section 1, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 1999, 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 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" means 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 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 has a stated number of winner payouts and a stated amount of the payouts;

~~11.~~ 10. "Distributor" means a person or business entity that sells, markets, or otherwise provides charity game equipment to an organization;

~~12.~~ 11. "Doing business" means either conducting a charity game by an organization or providing goods or services to an organization by a business entity;

~~13.~~ 12. "Employee" means a person who works for compensation in a licensed charity game establishment;

~~14.~~ 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;

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

~~16.~~ 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;

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

a. is an employee of an organization,

- b. has supervisory authority over other employees or over the conduct of charity games, and
- c. has been designated as such by the organization pursuant to the provisions of subsection D of Section 408 of this title;

~~18.~~ 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;

~~19.~~ "~~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;~~

~~20.~~ 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 exempt from taxation pursuant to the provisions of paragraphs (3), (4), (5), (6), (7), (8), (9), (10), or (19) of subsection (c) of Section 501 or paragraph (1) of subsection (a) of Section 509 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq. or Section 509(a)(1), 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;

~~21.~~ 19. "Progressive game" means a game in which prizes are allowed to be carried over and increased from ~~session~~ day to ~~session~~ day;

~~22.~~ 20. "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

~~23.~~ 21. "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 organization and used for verifying winners.

SECTION 2. AMENDATORY Section 4, Chapter 328, O.S.L. 1992, as amended by Section 4, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1999, 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 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;

9. Conduct all hearings including actions on investigations, forfeiture of contraband, 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 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 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 3. AMENDATORY Section 16, Chapter 328, O.S.L. 1992, as last amended by Section 8, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 1999, 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 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, 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 Except as otherwise provided in this section, charity game equipment owned by an organization may be disposed of 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 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.

F. Licensed organizations may return unused and unpurchased breakopen ticket cards to the distributor. The distributor may

either give the licensed organization a refund for the unused and unpurchased breakopen ticket cards or may allow the licensed organization to trade in their unused and unpurchased breakopen ticket cards on the purchase of new breakopen ticket cards.

SECTION 4. AMENDATORY Section 19, Chapter 328, O.S.L. 1992, as last amended by Section 10, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 1999, 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 two sessions 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 organization conducting the charity game.

~~E.~~ C. No licensee 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 organization or to any of its members or employees.

SECTION 5. AMENDATORY Section 20, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1999, 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 to an amount not to exceed Twelve Thousand Dollars (\$12,000.00) 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 there shall be no limitation on the amount of cash or any other thing of value paid out.~~

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 6. AMENDATORY Section 27, Chapter 328, O.S.L. 1992, as amended by Section 14, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 1999, 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, 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 organization to another licensed organization, an exempt 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 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. If the Commission or its agent seizes the alleged contraband, the Commission may proceed as provided in paragraph 3 of this subsection or the Commission may hold a forfeiture hearing in accordance with Section 403 of this title. Any order of forfeiture issued by the Commission shall be appealable to the district court;

3. The Except as provided in paragraph 2 of this subsection, 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.~~ 4. The court clerk shall give the owner of the alleged contraband fourteen (14) calendar days' written notice, by certified mail, of the hearing on the request for the order for destruction; and

~~4.~~ 5. If the owner of the alleged contraband is unknown or is unable to be served by said certified mailing, notice shall be provided by one publication in a newspaper of general circulation in the county where the alleged contraband was seized. Said notice shall contain a brief description of the alleged contraband and the place, date and time of the hearing not less than ten (10) calendar days before said hearing; and

6. Upon obtaining ~~an~~ a final order from either the court or the Director of the ABLE Commission ordering destruction, the Commission, its agent or the district attorney shall destroy the contraband in the manner they deem most appropriate.

SECTION 7. This act shall become effective November 1, 2000.

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