

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1173

By: Long

AS INTRODUCED

An Act relating to horse racing, charity games, and crimes and punishments; amending 3A O.S. 1991, Section 208.1, Section 3, Chapter 328, O.S.L. 1992, as last amended by Section 1, Chapter 280, O.S.L. 1997, Section 17, Chapter 328, O.S.L. 1992, 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, Section 22, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 280, O.S.L. 1997, Section 23, Chapter 328, O.S.L. 1992, as last amended by Section 12, Chapter 280, O.S.L. 1997, 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, 416, 418, 419, 421, 422 and 426), which relate to unclaimed winning pari-mutuel tickets and Oklahoma Charity Games Act, prescribing form and schedule for remitting unclaimed winning ticket proceeds; deleting, adding, clarifying, and modifying definitions; removing breakopen ticket cards and games, commonly known as pull tabs, from purview of Oklahoma Charity Games Act, thereby making the cards and games illegal and eliminating tax thereon; allowing certain organizations limited number of charity raffles of limited size if applied for and conducted pursuant to certain procedures; making all other raffles illegal; providing grounds for refusing to issue, denying renewal of, suspending, or revoking charity raffle permits; authorizing fines for certain actions or failures to act; amending 21 O.S. 1991, Sections 966, as amended by Section 30, Chapter 328, O.S.L. 1992, 981, as amended by Section 31, Chapter 328, O.S.L. 1992, and 1051 (21 O.S. Supp. 1999, Sections 966 and 981), which relate to definitions of gambling terms and to lotteries; deleting provision making certain drawings not a violation of the lottery or gambling laws; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 3A O.S. 1991, Section 208.1, is amended to read as follows:

Section 208.1 A. Any individual who claims to be entitled to any part of a pari-mutuel pool conducted by an organization licensee and who fails to ~~claim~~ receive the money due ~~him prior to the completion of the race meeting at which the pool was formed~~ may file the following with the organization licensee within sixty (60) days after the ~~close of the race meeting~~ wager has been made:

1. A verified claim on a form prescribed and furnished by the Oklahoma Horse Racing Commission setting forth such information as may be necessary to identify the particular pool and the amount claimed therefrom; and

2. A substantial portion of the pari-mutuel ticket upon which the claim is based, sufficient to identify the particular racetrack, race, and horse involved, the amount wagered, and whether the ticket was a win, place, or show ticket.

B. Upon proper application by an individual or an organization licensee the Commission shall hear any disputed claim and consider the proof offered in its support. Unless the claimant satisfactorily establishes ~~his~~ the right to participate in the pool, the claim shall be rejected. If the claim is allowed, the organization licensee shall pay the amount of the claim to the claimant upon order of the Commission.

C. All unclaimed ticket proceeds shall be remitted by the organization licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account ~~on the sixty-first day after the close of the race meeting~~.

1. The payment for unclaimed ticket proceeds shall be accompanied by a completed form as prescribed by the Commission; and

2. The organization licensee shall remit calendar quarterly payments of all unclaimed ticket proceeds which have been in the organization licensee's possession for no fewer than sixty (60) days after the wager has been made, regardless of whether the wager was

from live racing or simulcasting or during or between live race meetings.

SECTION 2. 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.~~ 4. "Charity game" means a bingo game, ~~or~~ or U-PIK-EM bingo game, ~~or breakopen ticket game~~ conducted by an organization pursuant to the provisions of the Oklahoma Charity Games Act;

~~7.~~ 5. "Charity game equipment" means any object uniquely designed for use in the conducting of a charity game including, but not limited to, bingo faces, ~~and~~ and 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.~~ 6. "Charity raffle" means a scheme for the awarding of a prize of either money or goods of actual pecuniary value conducted under Section 3 of this act, under which those wishing to participate in the raffle purchase tickets which give the purchaser a chance to win a prize through means of a random drawing of winning tickets from a container holding all purchased tickets;

7. "Commission" or "ABLE Commission" means the Alcoholic Beverage Laws Enforcement Commission;

~~9.~~ 8. "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.~~ 9. "Distributor" means a person or business entity that sells, markets, or otherwise provides charity game equipment to an organization;

~~12.~~ 10. "Doing business" means either conducting a charity game by an organization or providing goods or services to an organization by a business entity;

~~13.~~ 11. "Employee" means a person who works for compensation in a licensed charity game establishment;

~~14.~~ 12. "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.~~ 13. "Licensee" means any person, organization, or business entity which has received a license from the Commission;

~~16.~~ 14. "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.~~ 15. "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.~~ 16. "Manufacturer" means a person or business entity that assembles from raw materials, supplies, or subparts to form a completed series of charity game equipment for use in charity games and that sells, markets, or otherwise provides such equipment to a distributor;

~~19.~~ 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;

~~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 to session;

~~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 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 404.1 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. An organization may conduct no more than twelve charity raffles in any calendar year, if conducted under the following procedures. All other raffles are illegal. Permits to conduct charity raffles shall only be issued to entities that meet all the criteria necessary to qualify as an organization as that term is defined in Section 402 of Title 3A of the Oklahoma Statutes.

B. An organization wishing to conduct a charity raffle during a calendar year shall apply to the Alcoholic Beverage Laws Enforcement (ABLE) Commission for a permit to conduct a charity raffle, on a form prescribed by the ABLE Commission. The information provided by the applicant on the form shall include, but is not limited to, the following:

1. The name of the organization;
2. The mailing address of the organization;
3. The name, mailing address, and phone number of the organization's officer or employee who is to be responsible for organizing and conducting the charity raffle;
4. The prizes to be awarded in each charity raffle, and if a nonmonetary prize, the fair market value of the nonmonetary prize;
5. The number of tickets to be issued for sale in each charity raffle;
6. The price to be paid for each ticket to be sold in each charity raffle;
7. Where the charity raffle tickets will be sold, naming the city, the county, or giving other identifying information;

8. The date, location, and time where the drawing in each charity raffle is to be held; and

9. The use or uses to which proceeds from each charity raffle will be put.

C. An application for a charity permit 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 United States Internal Revenue Service that grants the applicant tax-exempt status, and the federal identification number assigned;

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

3. A copy of the by-laws of the organization;

4. A copy of the minutes of the meeting of the organization at which the governing body was elected and a statement of 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 charity raffle permit was authorized.

D. Organizations whose application to conduct charity raffles is granted by the Commission shall be issued a permit specifying the number of charity raffles the organization is authorized to conduct during the year. The permit shall also specify, for each charity raffle, the total number of tickets to be sold, the price of the ticket, and the prize to be awarded. Each permit shall contain, for each calendar year, a permit number which the permit holder shall print on each charity raffle ticket to be sold by the organization.

E. The ABLE Commission shall refuse to issue, deny renewal of, suspend, or revoke any charity raffle permit for any one or more of the following reasons:

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

2. Noncompliance with provisions of this act; or
3. Failure to pay any fine levied by the ABLE Commission.

F. The ABLE Commission may levy fines or refuse to issue, deny renewal of, suspend, or revoke any charity raffle permit for any one or more of the following reasons:

1. Violation of any provision of the Oklahoma Charity Games Act, determination of action on a permit pursuant to the provisions of this paragraph not being limited to actions against a permit holder that has been convicted of a violation in a court of competent jurisdiction;

2. Violation of any rule adopted by the ABLE Commission;

3. Failure to implement an order of the ABLE Commission;

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

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

G. No organization may conduct more than one charity raffle in a thirty-day period.

H. No more than a total of Six Thousand Dollars (\$6,000.00) in cash or other things of value shall be paid out in each charity raffle, nor may the total prizes for any charity raffle equal more than ten (10) times the proceeds from sale of all of the tickets authorized to be sold in that raffle.

SECTION 4. AMENDATORY Section 17, Chapter 328, O.S.L. 1992 (3A O.S. Supp. 1999, Section 416), is amended to read as follows:

Section 416. All damaged and winning bingo faces, ~~breakopen ticket cards,~~ and U-PIK-EM bingo game sets shall be reported and disposed of in such manner as the Alcoholic Beverage Laws Enforcement (ABLE) Commission shall prescribe.

SECTION 5. 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~~ 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. 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 6. 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~~ Alcoholic Beverage Laws Enforcement (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 ABLE Commission. Within thirty (30) calendar days of the date of receipt of such protest, the Commission shall conduct a hearing on ~~such~~ the protest. ~~Such~~

The 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~~ section, value means the retail cost which would be paid if the item were bought in a retail store.

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

SECTION 7. AMENDATORY Section 22, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 1999, Section 421), is amended to read as follows:

Section 421. A. There is hereby levied a tax in the amount of 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, and 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.~~

SECTION 8. AMENDATORY Section 23, Chapter 328, O.S.L. 1992, as last amended by Section 12, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 1999, 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 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 last day of the month following the month during which the items were sold to an organization.

E. The distributor shall not require a payment of the taxes levied pursuant to Section 421 of this title from any organization sooner than the fifteenth day of the month following the month during which items were sold to the organization. The distributor may require payment of the tax at the time of purchase from an organization if the organization does not make timely payments to the distributor as required by this section.

F. In computing the amount of charity games tax due, the distributor shall be entitled to a credit against the tax payable in the amount of tax paid by the distributor that has become uncollectible from an organization. The credit shall be claimed on the first or second return following the date on which the distributor was entitled to collect the tax as provided in this section if the payment remains unpaid as of the filing date of that return or the credit shall be disallowed.

G. An organization that fails to pay the tax to a distributor which has claimed a credit for the uncollectible taxes shall be liable for the remittance of the tax, interest and penalty due thereon and the Tax Commission may pursue collection thereof from the organization. Such a distributor shall be prohibited from

making further sales to such an organization until the organization has paid all taxes due. Notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes, the Tax Commission shall notify the ABLE Commission of any organization which fails to remit the charity games tax to its distributor.

H. The Tax Commission shall adopt rules establishing the evidence a distributor must provide to receive the credit. The claim for credit shall identify the defaulting organization and any tax liability that remains unpaid.

I. 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.

J. A licensed distributor 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 Tax Commission and for collecting such tax for the benefit of the state, if such tax is timely reported and remitted; provided, the discount provided by this section shall be limited to Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor and any amount in excess of Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor shall be retained by the state as an administrative expense and deposited to the General Revenue Fund. If the tax becomes delinquent, the licensed distributor forfeits any claim to the remuneration.

K. The Tax Commission shall, by rule, establish a procedure by which a licensed distributor shall be allowed a credit against subsequent tax liability for damaged bingo faces, U-PIK-EM bingo game sets, ~~breakopen ticket games~~ or charity game equipment upon which the tax required by the Oklahoma Charity Games 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.

L. The 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 distributors as required by this section.

M. The 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 9. 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~~ Any bingo faces, or 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~~ Alcoholic Beverage Laws Enforcement (ABLE) Commission and proper notification is given to the Oklahoma Tax Commission.

B. ~~On and after January 1, 1993, any~~ Any bingo faces, ~~or~~ or 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, ~~or~~ or 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, ~~or~~ or 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 ABLE 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 ABLE 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 ABLE Commission or the district attorney shall destroy the contraband in the manner they deem most appropriate.

SECTION 10. AMENDATORY 21 O.S. 1991, Section 966, as amended by Section 30, Chapter 328, O.S.L. 1992 (21 O.S. Supp. 1999, Section 966), is amended to read as follows:

Section 966. For the purposes of ~~this act~~ Section 961 et seq. of this title, "punch board" is defined to be any card, board, substance or thing upon or in which is placed or concealed in any manner any number, figure, name, design, character, symbol, picture, substance or thing which may be drawn, uncovered, exposed or removed therefrom by any person paying a thing of value, which number, figure, name, design, character, symbol, picture, substance or any other thing, when drawn, uncovered, exposed or removed therefrom, will stand the person drawing, uncovering, exposing or removing the same to win or lose a thing of value, ~~but shall not include a breakopen ticket card, as defined in the Oklahoma Charity Games Act.~~

SECTION 11. AMENDATORY 21 O.S. 1991, Section 981, as amended by Section 31, Chapter 328, O.S.L. 1992 (21 O.S. Supp. 1999, Section 981), is amended to read as follows:

Section 981. As used in ~~this act~~ Section 981 et seq. of this title:

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

- a. bona fide business transactions which are valid under the law of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance; ~~or,~~

- b. any charity game conducted pursuant to the provisions of the Oklahoma Charity Games Act~~;~~ or
- c. offers of purses, prizes or premiums to the actual participants in public and semipublic events, as follows, to wit: rodeos~~;~~ animal shows~~;~~ agricultural, athletic, or scholastic expositions~~;~~ or fairs~~;~~ athletic or scholastic events~~;~~ or agricultural, athletic, or scholastic tournaments and other agricultural, athletic, or scholastic shows and or contests where the participants qualify for a monetary prize or other recognition based on their own performance. This subparagraph further excepts an entry fee from the definition of "a bet" as applied to enumerated public and semipublic events.
- Nonagricultural, nonathletic, and nonscholastic events, shows, expositions, fairs, and tournaments including but not limited to card tournaments, do not fall within this exception;

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

paragraph 1 of this section for the use of such organizations in furthering the purposes of such organizations;

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

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

SECTION 12. AMENDATORY 21 O.S. 1991, Section 1051, is amended to read as follows:

Section 1051. A lottery is any scheme for the disposal or distribution of property by chance among persons who have paid, or promised, or agreed to pay any valuable consideration for the chance of obtaining such property, or a portion of it, or for any share of or interest in such property, upon any agreement, understanding or expectation that it is to be distributed or disposed of by a lot or chance, whether called a lottery, a raffle, or a gift enterprise, or by whatever name the same may be known. Valuable consideration shall be construed to mean money or goods of actual pecuniary value. ~~Provided, it shall not be a violation of the lottery or gambling laws of this state for (1) a bona fide resident merchant or~~

~~merchants of a city or town, acting in conjunction with the Chamber of Commerce or Commercial Club of this state thereof, to issue free of charge numbered tickets on sales of his merchandise, the corresponding stub of one or more of which tickets to be drawn or chosen by lot by a representative or representatives of said Chamber of Commerce or of said Commercial Club in the manner set forth on said tickets, the numbered stub or stubs so drawn to entitle the holder of the corresponding numbered issued ticket to a valuable prize donated by said merchant; (2) a bona fide community chest welfare fund on a military post or reservation to issue numbered tickets in conjunction with voluntary contributions to said fund, the corresponding stub or stubs of one or more of said tickets to be drawn by lot under the supervision of a military commander, the stub or stubs so drawn entitling the ticket holder to a prize of some value. Provided however, that no person shall sell tickets or receive contributions to said fund off the military reservation.~~

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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