

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 538

By: Haney

AS INTRODUCED

An Act relating to amusements and sports; creating Entertainment and Sports Commission; providing for duties of the Commission; providing for membership requirements, appointments, and terms; transferring all duties, responsibilities, powers, authority, and obligations of the Oklahoma Horse Racing Commission and such duties, responsibilities, powers, authority, and obligations of the Alcoholic Beverage Laws Enforcement Commission as relate to the Oklahoma Charity Games Act to the Entertainment and Sports Commission; abolishing the Oklahoma Horse Racing Commission; transferring and redesignating certain funds; transferring certain employees to new agency; providing for preservation of employee benefits; providing retirement options; requiring assistance from the Office of Personnel Management and the Office of State Finance; providing for investigation of certain appointees; providing for meetings and officers of the Entertainment and Sports Commission; providing for reimbursement of expenses; requiring compliance with certain acts; providing for removal of members; providing for disqualification as member of Commission; providing for powers and duties of Entertainment and Sports Commission; requiring recognition of licenses; authorizing employment of staff, including legal counsel; requiring appointment of executive director; providing executive director be an unclassified employee; authorizing employment of or contracting with certain additional personnel; amending 3A O.S. 1991, Sections 200.1, as amended by Section 14, Chapter 364, O.S.L. 1992, 203.3, 204, as last amended by Section 2, Chapter 305, O.S.L. 1997, 204.1B, 204.2, as last amended by Section 1, Chapter 238, O.S.L. 2000, Section 1, Chapter 125, O.S.L. 1995, as amended by Section 1, Chapter 176, O.S.L. 1996, 205.7, as last amended by Section 2, Chapter 176, O.S.L. 1996, Section 3, Chapter 125, O.S.L. 1995, as amended by Section 3, Chapter 176, O.S.L. 1996, 205.8, Section 30, Chapter 270, O.S.L. 1993, as amended by Section 2, Chapter 409, O.S.L. 1998, and Section 1, Chapter 85, O.S.L. 1993, as last amended by Section 5, Chapter 51, 1st Extraordinary Session, O.S.L. 1999 (3A O.S. Supp. 2000, Sections 200.1, 204, 204.2, 205.6a, 205.7, 205.7a, 208.3a and 208.11), which relate to the Oklahoma Horse Racing Act; modifying definition; modifying language to make consistent with other provisions of the act; deleting certain bonding requirement; restricting delegation authority; updating references; 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 8, Chapter 328, O.S.L. 1992, as last amended by Section 3, Chapter 280, O.S.L. 1997, Section 9, Chapter 328, O.S.L. 1992, as amended by Section 4, Chapter 280, O.S.L. 1997, Section 5, Chapter 280, O.S.L. 1997, Section 10, Chapter 328, O.S.L. 1992, as amended by Section 6, Chapter 280, O.S.L. 1997, Section 11, Chapter 328, O.S.L. 1992, as amended by Section 7, Chapter 280, O.S.L. 1997, Section 12, Chapter 328, O.S.L. 1992, as amended by Section 7, 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 20, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 305, O.S.L. 1993, Section 23, Chapter 328, O.S.L. 1992, as last amended by Section 12, Chapter 280, O.S.L. 1997, Section 27, Chapter 328, O.S.L. 1992, as amended by Section 14, Chapter 305, O.S.L. 1993, and Section 28, Chapter 328, O.S.L. 1992, as amended by Section 15, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 2000, Sections 402, 403, 407, 408, 408.1, 409, 410, 411, 415, 419, 422, 426, and 427), which relate to the Oklahoma Charity Games Act; modifying definitions; updating references; clarifying reference; deleting obsolete language; amending Section 2, Chapter 240, O.S.L. 1994, as last amended by Section 1, Chapter 210, O.S.L. 1999, Section 3, Chapter 210, O.S.L. 1999, Section 5, Chapter 240, O.S.L. 1994, as last amended by Section 5, Chapter 210, O.S.L. 1999, Section 12, Chapter 240, O.S.L. 1994, as amended by Section 11, Chapter 210, O.S.L. 1999 and Section 16, Chapter 240, O.S.L. 1994, as amended by Section 15, Chapter 210, O.S.L. 1999 (3A O.S. Supp. 2000, Sections 602, 604.1, 605, 612 and 616), which relate to the Oklahoma Professional Boxing Licensing Act; adding definition; modifying membership of the Oklahoma Professional Boxing Commission; deleting obsolete language; modifying authority to determine salary of administrator; removing certain restriction on the Oklahoma Professional Boxing Commission; transferring responsibility for providing certain administrative services from the State Department of Health to the Entertainment and Sports Commission; modifying acceptable form of certain required security; limiting authority of the Entertainment and Sports Commission; clarifying reference; transferring authority for expenditure of certain funds; amending Section 1, Chapter 305, O.S.L. 1993 (74 O.S. Supp. 2000, Section 1223), which relates to monitoring of Indian gaming compacts; modifying responsible agencies; repealing 3A O.S. 1991, Sections 201, as amended by Section 3, Chapter 364, O.S.L. 1992, 203, and 204.1A (3A O.S. Supp. 2000, Section 201), which relate to creation, meetings and revolving fund of the Oklahoma Horse Racing Commission; providing for codification; and providing effective dates.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 100 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Entertainment and Sports Commission, which shall consist of seven (7) members to be appointed by the Governor with the advice and consent of the Senate. The Commission shall administer and enforce the provisions of the Oklahoma Horse Racing Act and the Oklahoma Charity Games Act and shall issue licenses pursuant to such provisions. Of the seven members, three shall be experienced in the horse industry, two shall be experienced in the conducting of charity games pursuant to the Oklahoma Charity Games Act, one shall be experienced in tribal gaming operations and shall be an enrolled member of a federally recognized Indian tribe, and one shall be a lay member who is not experienced in either the horse industry or the conducting of charity games. Prior service as a member of the Oklahoma Horse Racing Commission shall not qualify a person as being "experienced in the horse industry" for purposes of this section. No person shall be appointed who resides in a county in which another appointee or member resides.

B. To be eligible for appointment to the Commission, a person shall:

1. Be a citizen of the United States;
2. Have been a resident of this state for at least five (5) years immediately preceding the appointment; and
3. Not have been convicted of or pled guilty or nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States.

C. After the initial term of office, the term of office shall be three (3) years.

The initial terms of office of the seven members shall be:

1. Position 1 shall expire December 31, 2002;

2. Position 2 shall expire December 31, 2002;
3. Position 3 shall expire December 31, 2003;
4. Position 4 shall expire December 31, 2003;
5. Position 5 shall expire December 31, 2004;
6. Position 6 shall expire December 31, 2004; and
7. Position 7 shall expire December 31, 2004.

D. Appointments to fill vacancies shall be for the unexpired portion of the term, and appointees shall have the same qualifications, as set forth in subsections A and B of this section, as have appointees for initial or full terms. Appointments to fill vacancies shall require Senate confirmation. If the Governor so desires, appointments to fill vacancies may, pursuant to Section 2.2 of Title 74 of the Oklahoma Statutes, designate that the appointee is to serve on an interim basis pending confirmation by the Senate.

E. The chair of any Senate committee which is fulfilling the statutory responsibility for approving nominations to the Entertainment and Sports Commission may, upon a vote by a majority of the committee and with the written consent of the nominee who is to be the subject of the investigation, initiate a special background investigation by the Oklahoma State Bureau of Investigation. The Oklahoma State Bureau of Investigation shall submit a report to the committee within thirty (30) days of the receipt of the request. Any consideration by the committee of a report from the Bureau shall be for the exclusive use of the committee and shall be considered only in executive session.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 101 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. On or before September 1, 2001, the Governor shall appoint the members of the Entertainment and Sports Commission in accordance with the provisions of Section 1 of this act.

B. Effective January 1, 2002, all duties, responsibilities, powers, authority, funds, obligations, property, and records of the Oklahoma Horse Racing Commission and all duties, responsibilities, powers, authority, funds, obligations, property, and records of the Alcoholic Beverage Laws Enforcement Commission regarding the Oklahoma Charity Games Act shall be transferred to the custody and assumed by the Entertainment and Sports Commission.

C. Effective January 1, 2002, the Oklahoma Horse Racing Commission shall be abolished. All monies appropriated to the Oklahoma Horse Racing Commission which have not been expended shall be redesignated by the Director of State Finance and allocated to the Entertainment and Sports Commission.

D. Effective January 1, 2002, all monies appropriated to or budgeted by the Alcoholic Beverage Laws Enforcement Commission for duties relating to the Oklahoma Charity Games Act which have not been expended shall be redesignated by the Director of State Finance and allocated to the Entertainment and Sports Commission.

E. The Entertainment and Sports Commission is authorized to employ persons who have been unclassified employees of the Oklahoma Horse Racing Commission. Effective January 1, 2002, all employees of the Alcoholic Beverage Laws Enforcement Commission identified by the Director of the Alcoholic Beverage Laws Enforcement Commission as being employees whose primary duties are related to the Oklahoma Charity Games Act shall become employees of the Entertainment and Sports Commission. Effective January 1, 2002, all employees of the State Department of Health employed by the Oklahoma Professional Boxing Commission shall become employees of the Entertainment and Sports Commission. All classified employees of the Alcoholic Beverage Laws Enforcement Commission transferred by the provisions of this act shall become classified employees of the Entertainment and Sports Commission. All unclassified employees of the Alcoholic Beverage Laws Enforcement Commission transferred by the provisions

of this act shall become classified employees of the Entertainment and Sports Commission unless such employees elect, in writing and filed with the Entertainment and Sports Commission, to remain unclassified. Such election must be made before January 23, 2002. No employee transferred by this act shall suffer any reduction in pay, loss of leave time, loss of retirement privileges, or any other benefit reduction as a result of the transfer required herein. Transferred employees who have been members of the Oklahoma Public Employees Retirement System (OPERS) immediately prior to transfer shall continue to be members of that system. Employees who have been members of another state retirement system immediately prior to transfer may, by written notice to the Entertainment and Sports Commission before January 23, 2002, elect to continue such membership, in which case the Entertainment and Sports Commission shall remit contributions for each employee so electing to the system of which the employee continues to be a member, or may elect to become members of OPERS, in which case the employee's former retirement system shall transfer to OPERS the total actual amount that has been contributed to the former system by and for the employee. OPERS shall fully recognize and credit all years and months of service such employee has accrued in the former system.

The Office of Personnel Management and the Office of State Finance shall assist the Oklahoma Horse Racing Commission, the Alcoholic Beverage Laws Enforcement Commission, the Department of Health, and the Entertainment and Sports Commission in implementing the provisions of this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 102 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Entertainment and Sports Commission shall meet at such times and places within this state as the Commission determines

appropriate. A majority of the total membership of the Commission shall constitute a quorum.

B. The initial members of the Commission shall, no later than October 1, 2001, elect from its membership a chair, vice-chair, and secretary. The initially-elected officers shall hold office until July 1, 2003. Thereafter, the members of the Commission shall annually elect from its membership a chair, vice-chair, and secretary. The officers of the Commission shall be elected each May to take office on July 1 following the election and shall hold office for a term of one (1) year. No member of the Commission shall serve more than two successive terms as chair.

C. The chair shall preside at all meetings of the Commission. The vice-chair shall exercise the powers of and perform the duties of the chair in the absence or disability of the chair, and perform such other duties as the Commission shall direct. The secretary shall preside at any meeting or hearing in the absence of the chair and vice-chair, supervise the maintenance of the records of the Commission, and shall perform such other duties as the Commission shall direct. At any regular or special meeting at which none of the officers are in attendance, the members of the Commission in attendance shall elect a member to preside at that meeting.

D. Members of the Commission shall receive no compensation for service, but shall be reimbursed for expenses incurred in the performance of their duties pursuant to the provisions of the State Travel Reimbursement Act.

E. The Commission shall comply with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, the Administrative Procedures Act, the State Travel Reimbursement Act, the Oklahoma Central Purchasing Act, and all other acts customarily applicable to agencies of this state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 103 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. Members of the Entertainment and Sports Commission shall be subject to removal from office as provided by law for the removal of elective officers not subject to impeachment.

B. A member of the Entertainment and Sports Commission shall become disqualified from continuing to serve if that member:

1. Moves out of state;

2. Moves into a county in which another sitting member of the Commission lives;

3. Is convicted of or pleads guilty or nolo contendere to a felony pursuant to the laws of the United States, the District of Columbia, or any state or territory of the United States;

4. Becomes medically incapacitated as determined in writing by a medical doctor upon request by the Commission; or

5. Is absent from three consecutive meetings or for significant portions of three consecutive meetings as determined by the Commission during any twelve-month period, unless such absence is determined to be unavoidable in the opinion of a majority of the remaining members.

C. The Commission, upon majority vote by the remaining members affirming that it regards a member as disqualified on grounds set forth in subsection B of this section, shall send written notification to the Governor setting out the dates of absences or other grounds for disqualification. Upon receipt of the written notification, the Governor shall afford notice and hearing to the affected member, after which the Governor may remove the member and appoint another member in the manner provided for appointments to the Commission.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 104 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. In addition to the duties imposed on the Entertainment and Sports Commission by the Oklahoma Horse Racing Act and the Oklahoma Charity Games Act, the Commission shall have the following powers and duties:

1. Have a seal which shall be judicially noticed and shall be affixed to all licenses issued by the Commission and such other documents as the Commission deems appropriate;

2. Adopt such rules as are necessary for the implementation of the administrative and enforcement provisions of the Oklahoma Horse Racing Act and the Oklahoma Charity Games Act, including rules for granting, denying, suspending, or revoking of licenses and permits pursuant to the provisions of the Oklahoma Horse Racing Act and the Oklahoma Charity Games Act. In addition to rules promulgated by the Entertainment and Sports Commission, rules promulgated by the Oklahoma Horse Racing Commission prior to January 1, 2002, and rules promulgated by the Alcoholic Beverage Laws Enforcement Commission relating to the Oklahoma Charity Games Act prior to January 1, 2002, shall be the rules of the Entertainment and Sports Commission and shall continue in effect until such rules are amended or repealed by the Entertainment and Sports Commission pursuant to the Administrative Procedures Act;

3. Keep correct records of all official proceedings, including minutes of meetings, applications and related documents of licensees, official documents filed in any hearings conducted by the Commission and in any proceedings in any court arising out of any provision of the Oklahoma Horse Racing Act or the Oklahoma Charity Games Act, and rules adopted by the Commission. Copies of said records certified by the secretary under the seal of the Commission shall, if material, be admissible in evidence;

4. Employ such staff as may be necessary to administer and enforce the Oklahoma Horse Racing Act and the Oklahoma Charity Games Act and to fix and pay their salaries or fees. The Commission may on or after October 1, 2001, hire an employee to be responsible for performing such duties as may be necessary to prepare the Commission to assume the duties imposed upon it by this act; and

5. Ensure that all monies received by the Commission from fees, fines, reimbursements, and sale of materials are deposited as provided by law.

B. All licenses issued by the Horse Racing Commission, issued pursuant to the Oklahoma Charity Games Act or issued by the Oklahoma Boxing Commission that are in force on January 1, 2002, shall be recognized by the Entertainment and Sports Commission and shall remain in force until expiration unless suspended or revoked prior thereto by law.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 105 of Title 3A, unless there is created a duplication in numbering, reads as follows:

A. The Sports and Entertainment Commission shall appoint an executive director. The executive director shall have the training and experience necessary for the administration of the Commission, as determined by the Commission. The Commission shall determine the necessary qualifications, duties, and compensation of the executive director, who shall be an unclassified employee.

B. 1. If requested by the Commission, the Attorney General shall advise the Commission and represent it in all legal proceedings or actions resulting from the exercise of the powers and duties of the Commission. Nothing in this section shall be construed to prohibit the Commission from employing full-time legal counsel if the Commission deems it necessary to protect the integrity of horse racing, the conducting of charity games, or to fulfill its responsibilities relating to tribal gaming compacts.

2. If full-time legal counsel is employed by the Commission, such counsel shall be authorized to appear for and represent the Commission in litigation that may arise from the discharge of its duties, and advise it upon legal matters pertaining to the Commission as directed by the Commission.

3. Commission legal counsel and the Attorney General are authorized to appear for and represent officers and employees of the Commission in any civil suits brought against Commission members and employees of the Commission in their individual capacities upon alleged causes of action arising from acts or omissions of such officers and employees within the scope of their official duties.

C. The Commission is authorized to contract with or hire special prosecutors, investigators, expert witnesses, hearing examiners, and clerical personnel in furtherance of its duties.

SECTION 7. AMENDATORY 3A O.S. 1991, Section 200.1, as amended by Section 14, Chapter 364, O.S.L. 1992 (3A O.S. Supp. 2000, Section 200.1), is amended to read as follows:

Section 200.1 ~~A.~~ As used in the Oklahoma Horse Racing Act:

1. "Commission" or "Oklahoma Horse Racing Commission" means the ~~Oklahoma Horse Racing~~ Entertainment and Sports Commission;

2. "Enclosure" means all areas of the property of an organization licensee to which admission can be obtained only by payment of an admission fee or upon presentation of proper credentials and all parking areas designed to serve the facility which are owned or leased by the organization licensee;

3. "Family" means husband, wife, and any dependent children;

4. "Financial interest" means an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity, or other compensation or remuneration from any person;

5. "Horse racing" means any type of horse racing, including but not limited to Arabian, Appaloosa, Paint, Pinto, Quarter Horse, and Thoroughbred horse racing.

- a. "Arabian horse racing" means the form of horse racing in which each participating horse is an Arabian horse registered with the Arabian Horse Club Registry of America and approved by the Arabian Horse Racing Association of America or any successor organization, mounted by a jockey, and engaged in races on the flat over a distance of not less than one-quarter (1/4) mile or more than four (4) miles.
- b. "Appaloosa horse racing" means the form of horse racing in which each participating horse is an Appaloosa horse registered with the Appaloosa Horse Club or any successor organization and mounted by a jockey.
- c. "Quarter Horse racing" means the form of horse racing where each participating horse is a Quarter Horse registered with the American Quarter Horse Association or any successor organization, mounted by a jockey, and engaged in a race on the flat.
- d. "Paint horse racing" means the form of horse racing in which each participating horse is a Paint horse registered with the American Paint Horse Association or any successor organization and mounted by a jockey.
- e. "Pinto horse racing" means the form of horse racing in which each participating horse is a Pinto horse registered with the Pinto Horse Association of America, Inc. or any successor organization and mounted by a jockey.
- f. "Thoroughbred horse racing" means the form of horse racing in which each participating horse is a

Thoroughbred horse registered with the Jockey Club or any successor organization, mounted by a jockey, and engaged in races on the flat;

6. "Minor" means any individual under eighteen (18) years of age;

7. "Minus pool" means a pari-mutuel pool in which, after deducting the take-out, not enough money remains in the pool to pay the legally prescribed minimum return to those placing winning wagers, and in which the organization licensee would be required to pay the remaining amount due;

8. "Occupation licensee" means any person who has obtained an occupation license;

9. "Organization licensee" means any person receiving an organization license;

10. "Pari-mutuel system of wagering" means a form of wagering on the outcome of horse races in which those who wager purchase tickets of various denominations on a horse or horses and all wagers for each race are pooled and held by the organization licensee for distribution. The pari-mutuel system of wagering uses an electric totalizator or similar equipment which automatically registers the wagers made on each horse and prints and issues a ticket representing each wager;

11. "Pari-mutuel pool" means the total money wagered by individuals on any horse or horses in a particular horse race to win, place, or show and held by the organization licensee pursuant to the pari-mutuel system of wagering. There is a separate pari-mutuel pool for win, for place, for show, and for each multiple combination of betting approved by the ~~Oklahoma Horse Racing~~ Commission;

12. "Person" means any individual, partnership, corporation, or other association or entity; and

13. "Race meeting" means the entire period of time not to exceed twenty (20) calendar days separating any race days for which an organization license has been granted to a person by the Commission to hold horse races at which the pari-mutuel system of wagering is conducted, to hold non-pari-mutuel horse races or to conduct accredited work or training races.

~~B. The Commission may define by rule or regulation any term which is not defined in the Oklahoma Horse Racing Act.~~

SECTION 8. AMENDATORY 3A O.S. 1991, Section 203.3, is amended to read as follows:

Section 203.3 A. ~~The Commission shall appoint an executive director who shall have the same qualifications as a member of the Commission. The qualification regarding the residency requirement for Commission members shall not apply to the executive director. The executive director shall have experience in the horse racing industry of a character and for a length of time sufficient, in the opinion of the Commission, to fulfill the duties required of the executive director. The Commission shall determine the duties and compensation of the executive director.~~

~~B. The executive director shall recommend to the Commission the administrative organization and the number and qualifications of employees necessary without regard to race, color, gender, creed or national origin, to implement the provisions of the Oklahoma Horse Racing Act. A written equal opportunity plan will be developed for the Commission, by the executive director as part of the organizational plan. Upon approval of the organizational plan by the Commission, the executive director may employ such persons as are deemed necessary to implement the provisions of the Oklahoma Horse Racing Act.~~

~~C. 1. The organizational plan adopted by the Entertainment and Sports Commission shall provide for a law enforcement division which shall have the responsibility for conducting investigations relating~~

to the proper conduct of horse racing and the pari-mutuel system of wagering including but not limited to barring undesirables from horse racing, undercover investigations, fingerprinting persons licensed by the Commission, and reviewing license applications.

B. The person in charge of the law enforcement division shall be a professional law enforcement officer with a minimum of five (5) years of experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science, or in lieu thereof a minimum of ten (10) years of experience in the field of law enforcement.

~~2.~~ C. The officers and agents of the law enforcement division of the Commission, and such other employees as the person in charge of said division shall designate to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of the state, shall have and exercise all the powers and authority of peace officers, including the right and power of search and seizure.

~~3.~~ D. The Oklahoma State Bureau of Investigation shall provide such information within its possession as is requested by the law enforcement division ~~of the Commission~~ for the purpose of reviewing license applications.

~~4.~~ E. If upon investigation by the Commission there is substantial evidence indicating that the security at any track is not satisfactory, the Commission may order the organization licensee to remedy the deficiency. If after ten (10) days following the order the organization licensee has not remedied the deficiency, the Commission may institute its own security personnel program until the deficiency in security is remedied, and may charge the organization licensee the actual costs incurred for said security. The organization licensee may petition the Commission for a hearing

at any time to review the necessity of the Commission further maintaining its own security personnel.

~~5. F.~~ The provisions of this subsection shall not be construed to restrict or prohibit any federal, state, or local law enforcement officer from performing any duties imposed upon the law enforcement officer by law.

~~D. The executive director shall obtain a surety bond in the amount of One Hundred Thousand Dollars (\$100,000.00) before entering into the duties of the office. The surety bond shall be conditioned upon the faithful performance of the duties of the executive director and the proper accounting of all moneys and property received by the executive director by virtue of the office. The cost of the surety bond shall be paid by the Commission.~~

SECTION 9. AMENDATORY 3A O.S. 1991, Section 204, as last amended by Section 2, Chapter 305, O.S.L. 1997 (3A O.S. Supp. 2000, Section 204), is amended to read as follows:

Section 204. A. ~~The Oklahoma Horse Racing Commission~~  
Entertainment and Sports Commission shall:

1. Have supervision of:

- a. all race meetings held in this state; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks jurisdiction of the Commission shall be limited to a period of time beginning twelve (12) hours before the commencement of the first race on a race day and ending four (4) hours after the finish of the last race on a race day,
- b. all occupation and organization licensees in this state, and
- c. all persons on the property of an organization licensee; provided, for non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks

supervision of such persons shall be limited to the period set out in subparagraph a of this paragraph;

~~2. Have the authority to promulgate rules for the purpose of administering the provisions of the Oklahoma Horse Racing Act;~~

~~3. Administer and enforce the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;~~

4. Adjudicate controversies arising from the enforcement of the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;

~~5.~~ 3. Allocate racing days of not to exceed six (6) days per calendar week, dates, and hours which are in the best interests of the people of this state to organization licensees;

~~6. Promulgate rules for the granting or refusing and the suspension or revoking of licenses;~~

~~7.~~ 4. Promulgate rules for the holding, conducting, and operating of all race meetings held in this state; provided, the rules of the American Quarter Horse Association for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks shall serve as the rules for the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks, except that appeals from decisions of the stewards shall be to the Commission, until such time as the Commission has promulgated substantially similar rules for regulation of the holding, conducting and operating of non-pari-mutuel race meetings and training races held at non-pari-mutuel tracks;

~~8.~~ 5. Have supervision and control of the pari-mutuel machines and all other equipment at all race meetings held in this state;

~~9.~~ 6. Check the making of pari-mutuel pools and the distribution of such pools and shall:

- a. contract with the Office of the State Auditor and Inspector to conduct an annual audit and inspection of live race meets in this state, and
- b. reimburse the Office of the State Auditor and Inspector for the cost of these services;

~~10. Promulgate rules governing:~~

- ~~a. bids on leases,~~
- ~~b. the rate charged by an organization licensee for admission to races, and~~
- ~~c. the rate charged for the performance of any service or for the sale of any article on the premises of an organization licensee;~~

~~11. Approve all contracts and agreements for the payment of money and all salaries, fees, and compensations by any organization licensee;~~

~~12.~~ 7. Have the authority to exclude, or compel the exclusion, from any race meeting:

- a. any person who violates the provisions of any rule or order of the Commission or any law of this state, any other state, or the United States,
- b. any person who has been previously convicted of violating any law of this state, any other state, the United States, or
- c. any other person, licensed or unlicensed, whose conduct or reputation is such that his or her presence at the race meeting may, in the opinion of the Commission reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of the race meeting. No person shall be excluded or ejected from a race meeting solely on the grounds of race, color, creed, sex, national origin, or ancestry;

~~13.~~ 8. Have investigatory powers and authority to place attendants and such other persons as may be deemed necessary by the Commission in the offices, on the tracks, or in places of business of any organization licensee for the purpose of determining whether an organization or occupation licensee is complying with the provisions of the Oklahoma Horse Racing Act and the rules of the Commission;

~~14.~~ 9. Have authority to acquire or contract with, or establish, maintain, and operate testing laboratories and related facilities for the purpose of conducting:

- a. human substance abuse testing on occupation licensees who may affect the outcome of race results. Human substance abuse tests and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the United States Department of Health and Human Services. The Commission may require any occupation licensee to submit to a human substance abuse test if the Commission has probable cause to believe that such licensee is possessing or using any controlled dangerous substance or any other drug in violation of any federal or state law. Provided, on and after July 1, 1994, such testing shall be in compliance with the provisions of the Standards for Workplace Drug and Alcohol Testing Act, and
- b. a saliva test, a blood test, a urine test, or other tests or combinations of tests on the horses run or to be run in any race meeting. Prior to the Commission entering into any contract pursuant to this paragraph, the Attorney General shall review and approve the contract. Any contract entered into pursuant to this

paragraph shall contain the specifications that were  
in the request for bid for the contract;

~~15.~~ 10. Approve of all proposed construction on property owned  
or leased by an organization licensee;

~~16.~~ 11. Have authority to require that all financial,  
employment, or other records of an organization licensee shall be  
kept in such manner as prescribed by the Commission and shall be  
subject to inspection by the Commission. The organization licensee  
shall submit to the Commission an annual balance sheet,  
profit-and-loss statement, and any other relevant information the  
Commission deems necessary in order to administer the provisions of  
the Oklahoma Horse Racing Act;

~~17.~~ 12. Have the authority to suspend or revoke a license or  
impose fines in amounts not to exceed Ten Thousand Dollars  
(\$10,000.00) against individuals for each violation and in amounts  
not to exceed Twenty Thousand Dollars (\$20,000.00) against  
organization licensees for each violation of any provision of the  
Oklahoma Horse Racing Act, any rules adopted by the Commission, or  
any order of the Commission, or for any other action which, in the  
discretion of the Commission, is a detriment or impediment to horse  
racing or both such suspension or revocation and fine. Each day  
upon which such violation or other action by the organization  
licensee occurs shall constitute a separate offense;

~~18.~~ 13. Have authority to suspend a horse from participating in  
races if the horse has been involved in any violation of the rules  
promulgated by the Commission or the provisions of the Oklahoma  
Horse Racing Act; and

~~19.~~ 14. Prepare and submit an annual report to the Governor,  
the Speaker of the House of Representatives, and the President Pro  
Tempore of the Senate. The report shall include an account of the  
operations, actions, and orders of the Commission, and an accounting  
of all revenue received by the Commission.

B. 1. The Commission may delegate to stewards or the Executive Director, those of its administrative powers and duties as it deems necessary to fully implement and effectuate the purposes of the Oklahoma Horse Racing Act.

2. The Commission, upon appeal or due consideration, may overrule any decision of a steward except decisions regarding disqualifications for interference during the running of a race if a preponderance of evidence indicates:

- a. the stewards mistakenly interpreted the law,
- b. new evidence of a convincing nature is produced, or
- c. the best interests of racing and the state may be better served.

3. Any decision pertaining to the finish of a race, as used for purposes of pari-mutuel pool distribution to winning ticket holders, may not be overruled. Any decision pertaining to the distribution of purses may be changed only if a claim is made in writing to the Commission by one of the involved owners or trainers, and a preponderance of evidence clearly indicates to the Commission that one or more of the grounds for protest, as provided for in the rules prepared by the Commission, has been substantiated.

SECTION 10. AMENDATORY 3A O.S. 1991, Section 204.1B, is amended to read as follows:

Section 204.1B There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission, to be designated the "Equine Drug Testing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the ~~Oklahoma Horse Racing~~ Commission, from appropriations made to the Commission for deposit in the fund and monies paid by organization licensees to the Commission pursuant to assessments made by the Commission for equine drug testing. All monies accruing to the credit of said fund are hereby appropriated

and may be budgeted and expended by the ~~Oklahoma Horse Racing~~ Commission for the purpose specified in paragraph 14 of subsection A of Section 204 of Title 3A of the Oklahoma Statutes. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 11. AMENDATORY 3A O.S. 1991, Section 204.2, as last amended by Section 1, Chapter 238, O.S.L. 2000 (3A O.S. Supp. 2000, Section 204.2), is amended to read as follows:

Section 204.2 A. The ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission shall issue occupation licenses to horse owners, trainers, jockeys, agents, apprentices, grooms, exercise persons, veterinarians, valets, blacksmiths, concessionaires, stewards, starters, timers, judges, supervisors of mutuels, guards, and such other personnel designated by the Commission whose work, in whole or in part, is conducted upon racetrack grounds which are owned by an organization licensee. The licenses shall be obtained prior to the time such persons engage in their vocations upon such racetrack grounds at any time during the calendar year for which the organization license has been issued. No person required to be licensed pursuant to the provisions of this section may participate in any capacity in any race meeting without a valid license authorizing such participation.

B. Each application for an occupation license shall be on a form prescribed and furnished by the Commission and shall include a search waiver. The license shall be renewed either annually or triennially beginning January 1. The application shall be accompanied by a fee in an amount of not more than One Hundred Dollars (\$100.00) if renewed annually or not more than Three Hundred Dollars (\$300.00) if renewed triennially. Each application shall contain the following information concerning the applicant:

1. Full name and address; ~~and~~

2. Age; ~~and~~

3. Whether the applicant was issued any prior occupation license from this state; ~~and~~

4. Whether the applicant was issued any occupation license from another state; ~~and~~

5. Whether an occupation license from another state is or has been denied, suspended, or revoked; ~~and~~

6. Whether the applicant has been convicted of a felony in this state or any other state; and

7. Such other information as required by the Commission.

C. The Commission may refuse an occupation license to any person:

1. Who has been convicted of a felony; ~~or~~

2. Who has been convicted of violating any law regarding gambling or controlled dangerous substances of the United States, this state, or any other state; ~~or~~

3. Who is unqualified to perform the duties required of the applicant; ~~or~~

4. Who fails to disclose or states falsely any information required in the application; ~~or~~

5. Who has been found guilty of a violation of any provision of the Oklahoma Horse Racing Act or of the rules and regulations of the Commission; or

6. Whose license has been suspended, revoked, or denied for just cause in any other state.

D. The Commission may suspend or revoke any occupation license or fine an occupation licensee for:

1. Violation of any of the provisions of the Oklahoma Horse Racing Act; or

2. Violation of any provision of the rules or regulations of the Commission; or

3. Any cause which, if known to the Commission, would have justified the refusal of the Commission to issue the occupation license; or

4. Any other just cause as determined by the Commission.

E. Except as provided for in this subsection, the license fees received by the Commission pursuant to the provisions of this section shall be deposited to the credit of the General Revenue Fund of the State Treasury. Of the original application fee for an occupation license, the amount of the fingerprinting fee shall be deposited in the OSBI Revolving Fund.

F. Notwithstanding any other provision of the Oklahoma Horse Racing Act, Section 200 et seq. of this title, licenses for personnel specified in subsection A of this section whose work is limited to racetrack grounds which are owned by an organization licensee which only conducts non-pari-mutuel race meetings or training races shall be issued pursuant to rules adopted by the Commission in accordance with the American Quarter Horse Association rules.

G. The Commission may promulgate rules to facilitate and promote uniform, reciprocal occupation licensing with other jurisdictions.

H. Nothing in the Oklahoma Horse Racing Act or rules promulgated pursuant thereto shall prohibit or be construed as prohibiting issuance of any occupational license solely because the applicant is an organizational licensee or racetrack owner or holds an interest in a race track.

SECTION 12. AMENDATORY Section 1, Chapter 125, O.S.L. 1995, as amended by Section 1, Chapter 176, O.S.L. 1996 (3A O.S. Supp. 2000, Section 205.6a), is amended to read as follows:

Section 205.6a A. Any organization licensee shall file with the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission its plan to conduct pari-mutuel wagering at a facility or

facilities located outside the organization licensee's racing enclosure. Such pari-mutuel wagering may be conducted at any time as authorized by the Commission. The conducting of pari-mutuel wagering at a facility outside the organization licensee's enclosure is subject to the following:

1. Pari-mutuel wagering shall be permitted only in a county which approves or has approved the conducting of pari-mutuel horse racing in that county pursuant to the provisions of Section 209 of this title;

2. Pari-mutuel wagering conducted by an organization licensee shall not be permitted within thirty (30) miles of another organization licensee's racing enclosure without the express permission granted by the other organization licensee;

3. All pari-mutuel wagering facilities located outside any organization licensee's racing enclosure shall be operated in accordance with all applicable rules of the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission Rules of Racing (Pari-Mutuel Edition);

4. The organization licensee sending its racing signal to a facility or facilities outside its racing enclosure may combine the pari-mutuel pools of all facilities with those of the organization licensee for the purpose of determining odds and computing payoffs. The amount of money to be retained and distributed by the organization licensee and to be remitted to the Oklahoma Tax Commission from money wagered pursuant to the provisions of this section shall be the same as set forth in paragraph 1 of subsection B, in subsection D, and in subsection E of Section 205.6 of this title and in Section 208.2 of this title;

5. One percent (1%) of the total monies wagered at a facility other than an organization licensee's racing enclosure shall be distributed from the amount retained pursuant to paragraph 4 of this subsection as follows:

- a. ten percent (10%) to the State Auditor and Inspector for the purpose of auditing such facilities, and
- b. forty-five percent (45%) to the county in which the facility is located, and
- c. forty-five percent (45%) to the city in which the facility is located, or
- d. if the facility is not located within the corporate limits of any city, ninety percent (90%) to the county in which the facility is located;

6. The distribution for purses at facilities other than an organization licensee's racing enclosures shall be:

- a. six and one-half percent (6.5%) of total handle during the first thirty-six (36) months after the opening of a facility in a county, and
- b. seven and one-half percent (7.5%) of total handle thereafter.

Upon completion of three hundred sixty-five (365) calendar days since the opening of a facility in a county, the thirty-six-month period commences retroactive to the opening of that facility. If the facility does not operate for three hundred sixty-five (365) calendar days, a new facility may be opened and operated, with the thirty-six-month period commencing consistent with this paragraph. If a facility terminates operation after the three-hundred-sixty-fifth calendar day, all days shall be allotted to subsequent facilities not to exceed one thousand ninety-five (1,095) calendar days per facility; and

7. The organization licensee, after the distribution to the Oklahoma Tax Commission pursuant to the provisions of paragraph 4 of this subsection and distributions pursuant to paragraphs 5 and 6 of this subsection, shall retain the balance of the monies wagered.

B. Notification by an organization licensee to conduct pari-mutuel wagering at a facility or facilities outside of the

organization licensee's racing enclosure shall be made annually to the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission. An organization licensee may make an original notification to conduct pari-mutuel wagering at a facility or facilities outside of the organization licensee's racing enclosure at any time.

C. All persons employed in the actual conduct of pari-mutuel wagering at a facility outside an organization licensee's racing enclosure shall be licensed by the Commission, consistent with Section 204.2 of this title.

D. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee sending the racing program.

SECTION 13. AMENDATORY 3A O.S. 1991, Section 205.7, as last amended by Section 2, Chapter 176, O.S.L. 1996 (3A O.S. Supp. 2000, Section 205.7), is amended to read as follows:

Section 205.7 A. ~~The Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission may authorize an organization licensee to accept wagers on the results of out-of-state full racing programs for simulcast races as follows:

1. On days when the organization licensee is conducting live racing, the licensee may accept wagers on not more than two out-of-state full racing programs during the hours when it is conducting live racing, and may accept wagers on the results of not more than four out-of-state full racing programs during the hours it is not conducting live racing; and

2. a. On days when the organization licensee is not conducting live racing, the licensee may accept wagers on the results of not more than six out-of-state full racing programs, provided that the number of days, not included in its race meeting, which an organization licensee may be authorized to accept wagering pursuant

to this paragraph is limited to fifty percent (50%) of the number of days the licensee conducts live racing;

- b. notwithstanding the limitations contained in subparagraph a of this paragraph, an organization licensee may accept wagers on races run at any racetrack licensed by the ~~Oklahoma Horse Racing~~ Commission, and may accept wagers on the out-of-state full racing programs received by said racetrack;

3. On days when the licensee is conducting live racing, the ~~Oklahoma Horse Racing~~ Commission may authorize the organization licensee to accept wagers on individual out-of-state simulcast races in addition to the out-of-state full racing programs.

B. For purposes of this section, fifty percent (50%) or more of the races being run at an out-of-state track constitutes a full racing program. The authorization provided in subsection A of this section must comply with federal laws including, but not limited to, Chapter 57 of Title 15 of the United States Code.

C. Wagers on out-of-state races conducted pursuant to the provisions of this section may be placed in a separate pari-mutuel pool or pools, or may be combined with the pari-mutuel pool or pools of the track where the race is run, or may be combined with other organization licensees licensed by the ~~Oklahoma Horse Racing~~ Commission and their wagering facilities located within this state.

D. Each organization licensee accepting wagers on an out-of-state race shall deduct a percentage of the amount handled which is equal to the percentage deducted from the amount handled by the organization licensee in pari-mutuel pools at the race meeting or meetings held by the organization licensee if the wagers on the out-of-state races are not being combined with the pari-mutuel pool or pools where the race or races are being run.

E. For the day on which the out-of-state race is offered, each organization licensee shall pay the state share of the organization

licensee at the rate applicable to the races of the racing program of the organization licensee.

F. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensee.

G. Except as otherwise provided by law, the amount remaining from the deduction pursuant to the provisions of subsection D of this section after payment of the state share and the contractual payment to the out-of-state host racing organization, shall be distributed as follows:

1. Fifty percent (50%) to the organization licensee; and
2. Fifty percent (50%) to the organization licensee to be distributed as purses.

H. An organization licensee accepting wagers on out-of-state full racing programs pursuant to subsection A of this section shall, for any year in which it intends to accept such out-of-state full racing programs, make application to the Commission for not less than eighty percent (80%) of the number of live racing days awarded for each race meeting to that licensee in 1996.

I. Notwithstanding subsection H of this section, any organization licensee may apply for less than the eighty percent (80%) of the number of live race days for a designated race meeting awarded to the licensee in 1996 if such application is approved by the organization licensee's official horsemen's representative at that designated race meeting.

J. One-tenth of one percent (1/10 of 1%) of the total monies wagered at the racing enclosure on out-of-state simulcast races shall be remitted by the organization licensee from the amount retained pursuant to this section to the State Auditor and Inspector for the purpose of auditing racing facilities.

SECTION 14. AMENDATORY Section 3, Chapter 125, O.S.L. 1995, as amended by Section 3, Chapter 176, O.S.L. 1996 (3A O.S. Supp. 2000, Section 205.7a), is amended to read as follows:

Section 205.7a A. Any organization licensee that accepts full-card out-of-state simulcast wagering at any time during a calendar year shall be required to televise to all other racetracks licensed by the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission all of its live races, or the number of days of its live racing which is equivalent to the number of days of live racing conducted at the receiving track, whichever is less. Pari-mutuel wagering may be conducted on such races at all other racetracks licensed by the ~~Oklahoma Horse Racing Commission~~ and may be allowed at their in-state offtrack pari-mutuel wagering facilities or at any other racetrack or entity in another state or country. Money wagered on such races may be placed in separate or common pools as determined by rules of the ~~Oklahoma Horse Racing Commission~~. A written application to televise a race shall contain the details of such race, its agreements and contracts, and shall be submitted to the ~~Oklahoma Horse Racing Commission~~ for its approval prior to the racing event. Such agreement shall comply with all applicable laws of the United States and the laws of this state. The proceeds of the agreement shall be distributed in the same manner as money wagered pursuant to the provisions of paragraph 1 of subsection B, in subsection D, and in subsection E of Section 205.6 of this title and Section 208.2 of this title.

B. For the days on which a licensed track within this state does not conduct live racing but conducts pari-mutuel wagering on races televised from another licensed track within this state or on out-of-state races, the conducting of pari-mutuel wagering shall not be considered racing days for the purposes of this title.

C. When any licensed track within this state conducts pari-mutuel wagering on races televised from another licensed track

within this state, the receiving licensee shall not retransmit the sending licensee's signal without the express permission of the sending licensee.

D. Breakage and unclaimed ticket proceeds shall be distributed in the manner applicable to the races of the racing program of the organization licensees who are sending and receiving the racing program.

SECTION 15. AMENDATORY 3A O.S. 1991, Section 205.8, is amended to read as follows:

Section 205.8 A. Pursuant to rules and regulations of the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission, an organization licensee shall be permitted to conduct a National Breeders' Cup pick seven.

B. Any organization licensee authorized by the Commission to accept wagers on the results of the National Breeders' Cup races shall apportion all money wagered on pick seven wagers as follows:

1. Seven percent (7%) shall be remitted to the Oklahoma Tax Commission on the first business day following the close of the racing day on which it was assessed. The revenue shall be apportioned monthly to the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature;

2. Ten percent (10%) shall be retained by the organization licensee;

3. Eight percent (8%) shall be retained by the organization licensee to be distributed as purses; and

4. Seventy-five percent (75%) shall be placed in a separate pari-mutuel pool but shall be commingled with other states' pick seven wager pari-mutuel pools as governed by rules set forth by the Commission.

SECTION 16. AMENDATORY Section 30, Chapter 270, O.S.L. 1993, as amended by Section 2, Chapter 409, O.S.L. 1998 (3A O.S. Supp. 2000, Section 208.3a), is amended to read as follows:

Section 208.3a A. There is hereby created in the State Treasury a revolving fund for the ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission, to be designated the "Oklahoma Breeding Development Administration Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission from transfers made pursuant to paragraph 6 of subsection B of Section 208.3 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commission for the purpose of administering the Oklahoma Breeding Development Program, or additions to purses of Oklahoma-bred races, and for no other purpose. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. Monies received by and expenditures from said fund shall be subject to an annual audit pursuant to paragraph ~~6~~ 7 of subsection B and subsection E of Section 208.3 of this title.

At the close of each fiscal year any unencumbered, unobligated, and unexpended monies in the Oklahoma Breeding Development Administration Revolving Fund shall be transferred to the Oklahoma Breeding Development Fund Special Account.

SECTION 17. AMENDATORY Section 1, Chapter 85, O.S.L. 1993, as last amended by Section 5, Chapter 51, 1st Extraordinary Session, O.S.L. 1999 (3A O.S. Supp. 2000, Section 208.11), is amended to read as follows:

Section 208.11 A. The ~~Oklahoma Horse Racing Commission~~ Entertainment and Sports Commission is hereby authorized to determine by rule which drugs and medications, if any, may be

administered to a horse prior to or during a horse race and to determine by rule the conditions under which such drugs and medications may be used or administered.

B. The administration of any drug or medication to a horse prior to or during a horse race which is not permitted by rule of the Commission is prohibited.

C. Any person who violates the provisions of this section or who knowingly enters in a race a horse to which any drug or medication has been administered in violation of this section shall be guilty, upon conviction, of a felony and shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned for a period of not more than ten (10) years, or by both said fine and imprisonment. The Commission shall suspend or revoke the license of any such guilty party.

SECTION 18. 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. 2000, 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~~, or "Alcoholic Beverage Laws Enforcement Commission" means the Entertainment and Sports 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. "Distributor" means a person or business entity that sells, markets, or otherwise provides charity game equipment to an organization;

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

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

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

15. "Licensee" means any person, organization, or business entity which has received a license from the Commission pursuant to the provisions of the Oklahoma Charity Games Act;

16. "Location" means the building, including the individual rooms and equipment in the rooms, grounds, and appurtenances, including adjacent premises if subject to the direct or indirect control of the organization while conducting a charity game, which are used in connection with or in furtherance of the conducting of a charity game;

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

22. "U-PIK-EM bingo game" means a game played wherein a player writes the numbers on a U-PIK-EM bingo game set. The player retains one sheet of the set and deposits the second sheet in a receptacle

in the control of the organization. The player then covers the numbers as the caller announces a number. The numbers called are on an object selected at random either manually or mechanically from a receptacle in which have been placed the objects bearing the numbers. The winner of each U-PIK-EM bingo game is the player who first covers all the numbers appearing on the retained sheet in accordance with the pattern as designated on the sheet; and

23. "U-PIK-EM bingo game set" means two paper sheets of carbonless paper both bearing identical serial numbers on which a player writes numbers 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 19. AMENDATORY Section 4, Chapter 328, O.S.L. 1992, as amended by Section 4, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 2000, Section 403), is amended to read as follows:

Section 403. A. The ~~ABLE Commission~~ Entertainment and Sports 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, 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 20. AMENDATORY Section 8, Chapter 328, O.S.L. 1992, as last amended by Section 3, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 2000, Section 407), is amended to read as follows:

Section 407. A. The ~~ABLE-Commission~~ Entertainment and Sports 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;

3. Failure to implement an order of the Commission;

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

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

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

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

SECTION 21. AMENDATORY Section 9, Chapter 328, O.S.L. 1992, as amended by Section 4, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 2000, Section 408), is amended to read as follows:

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

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

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

D. Only an organization or an employee or manager of an 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.

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

1. A certified copy of the document from the U.S. Internal Revenue Service which grants the applicant tax-exempt status and the federal identification number;

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

3. A copy of the bylaws of the organization;

4. A copy of the minutes of the meeting of the organization at which the governing body was elected and the terms of office of each member of the governing body;

5. A copy of the minutes of the meeting of the governing body of the organization at which the application for the license was authorized;

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

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

8. Such other information deemed necessary by the Commission to assure eligibility for a license.

F. A renewal application shall only include any changes in the information required to be submitted with the initial application.

G. An organization license shall be placed within public view at all times in a conspicuous place at the location where the charity game is being conducted.

SECTION 22. AMENDATORY Section 5, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 2000, Section 408.1), is amended to read as follows:

Section 408.1 A compensated employee or manager of an organization shall be required to obtain an employee or manager license from the ~~ABLE Commission~~ Entertainment and Sports Commission. Every organization licensee pursuant to the Oklahoma Charity Games Act shall designate one person to be manager of its charity gaming operations. If a manager is compensated for such service, the organization shall report the name and address of the manager to the Commission. Each such 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. A manager who is compensated 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.

SECTION 23. AMENDATORY Section 10, Chapter 328, O.S.L. 1992, as amended by Section 6, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 2000, Section 409), is amended to read as follows:

Section 409. A. Any person or business entity desiring to sell or supply any charity game equipment to a licensed organization in this state shall apply to the ~~ABLE Commission~~ Entertainment and Sports 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;

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. 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, if the applicant is a person who is not a resident of this state or a business entity not located in this state.

SECTION 24. AMENDATORY Section 11, Chapter 328, O.S.L. 1992, as amended by Section 7, Chapter 280, O.S.L. 1997 (3A O.S. Supp. 2000, 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~~ Entertainment and Sports 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 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 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 25. AMENDATORY Section 12, Chapter 328, O.S.L. 1992, as amended by Section 7, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 2000, Section 411), is amended to read as follows:

Section 411. A. An applicant for an initial organization license shall, prior to applying for such license, twice publish, in such form and containing such information as the ~~ABLE Commission~~ Entertainment and Sports 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.

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

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 26. 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. 2000, 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 game equipment owned by an organization may be disposed of with the written permission of the ~~Director of the ABLE Commission~~ executive director of the Entertainment and Sports 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.

SECTION 27. AMENDATORY Section 20, Chapter 328, O.S.L. 1992, as amended by Section 11, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 2000, 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~~ Entertainment and Sports 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.

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 28. 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. 2000, 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~~ Entertainment and Sports 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~~ Entertainment and Sports Commission and the ~~Oklahoma~~ Tax Commission and for collecting such tax for the benefit of the state, if such tax is timely reported and remitted; provided, the discount provided by this section shall be limited to Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed

distributor and any amount in excess of Three Thousand Three Hundred Dollars (\$3,300.00) per reporting period for each licensed distributor shall be retained by the state as an administrative expense and deposited to the General Revenue Fund. If the tax becomes delinquent, the licensed distributor forfeits any claim to the remuneration.

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

M. 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 29. AMENDATORY Section 27, Chapter 328, O.S.L. 1992, as amended by Section 14, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 2000, Section 426), is amended to read as follows:

Section 426. A. ~~On and after January 1, 1993, any bingo~~ 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 Executive convalescent facility, if written permission is obtained from the Director of the ~~ABLE~~ Entertainment and Sports Commission and proper notification is given to the Oklahoma Tax Commission.

B. ~~On and after January 1, 1993, any bingo~~ 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 are contraband.

C. ~~Any bingo~~ 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~~ 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~~ are contraband.

E. Such contraband shall be subject to confiscation, forfeiture, and destruction in the following manner:

1. The Entertainment and Sports 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 30. AMENDATORY Section 28, Chapter 328, O.S.L. 1992, as amended by Section 15, Chapter 305, O.S.L. 1993 (3A O.S. Supp. 2000, Section 427), is amended to read as follows:

Section 427. A. ~~Any organization which holds an unexpired license to conduct a bingo game issued pursuant to the provisions of Sections 995.1 through 995.15 of Title 21 of the Oklahoma Statutes is authorized to continue conducting such licensed game until the expiration date of said license. Any organization which holds an unexpired license to conduct a bingo game issued by the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Charity Games Act, Section 401 et seq. of this title, prior to the effective date of this act is authorized to continue conducting such licensed game until the expiration date of said license.~~

~~1. Any such licensee continuing to conduct bingo games pursuant to the license issued by a district court clerk shall submit the information required in Section 408 of this title by March 1, 1993.~~

~~2. Upon expiration of the license issued by the district court clerk, the organization shall submit a new application and pay the appropriate fees as required for organizations which did not have a license to conduct bingo games on December 1, 1992.~~

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

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

~~1. Before December 31, 1992, and upon receipt of said sworn affidavit of inventory, the Oklahoma Tax Commission shall provide the applicant with a stamp or seal, in a manner to be determined by the Oklahoma Tax Commission for marking the charity game equipment which will be exempt from the tax provisions of the Oklahoma Charity Games Act.~~

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

~~C. On or after July 1, 1993, the ABLE Commission~~

~~B. The Entertainment and Sports Commission shall promulgate such emergency rules as deemed necessary for implementation and enforcement of the Oklahoma Charity Games Act. The ABLE Commission shall promulgate permanent rules necessary for implementation and enforcement of the Oklahoma Charity Games Act for submission to the Legislature at the beginning of the next regular legislative session.~~

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

SECTION 31. AMENDATORY Section 2, Chapter 240, O.S.L. 1994, as last amended by Section 1, Chapter 210, O.S.L. 1999 (3A O.S. Supp. 2000, Section 602), is amended to read as follows:

Section 602. A. As used in the Oklahoma Professional Boxing Licensing Act:

1. "Administrator" means the administrator of professional boxing licensing;

2. "Amateur boxer" means a person who has never received or competed for any purse or other article either for the expenses of training therefor or for participating in any boxing contest or professional exhibition which exceeds in monies or other things of value a sum to be determined by the Oklahoma Professional Boxing Commission;

3. "Applicant" means any individual, club, association, corporation, partnership or trust which submits to the Oklahoma Professional Boxing Commission an application for a license or permit pursuant to the Oklahoma Professional Boxing Licensing Act;

4. "Booking agent" means independent contractors who act as bookers, agents, agencies and representatives who secure engagements and contracts for boxers;

5. "Boxing" means any form of competitive pugilism or unarmed combat in which a blow is usually struck which may reasonably be expected to inflict injury, including, but not limited to, boxing, wrestling, and kickboxing, but shall not include the martial arts as defined by the provisions of this section;

6. "Broadcast" means any audio or visual transmission sent by any means of signal within, into, or from this state, whether live or taped or time delayed, and includes any replays thereof;

7. "Cable system operator" means any person who makes available or provides customers a closed-circuit telecast which is pay-per-view, including any person who does so as a direct broadcast satellite provider or other multichannel video service provider;

8. "Closed-circuit telecast of professional boxing events" means telecast rights, including television, cable television, or pay-per-view telecasts, acquired by paying a licensing fee or by paying a contractual price by a business or individual, including, but not limited to, arenas, entertainment or meeting centers, restaurants, bars, taverns, hotels, motels, clubs, and organizations, which offers the viewing of the event to the public or to private residences. Such events shall include local and state professional boxing contests and professional exhibitions as defined in this section. For purposes of Sections 621 and 622 of this title, "closed-circuit telecast" means any such telecast of a professional boxing event as described herein which is not intended to be available for viewing without the payment of a fee, collected for or based upon each event viewed, for the privilege of viewing the telecast, and includes pay-per-view;

9. "Club" means an incorporated or unincorporated association or body of individuals voluntarily united and acting together for some common or special purpose;

10. "Commission" means the Oklahoma Professional Boxing Commission;

11. "Contest" means a boxing match in which it is reasonable to anticipate that the participants strive earnestly in good faith to win;

12. "Corner person" means, but shall not be limited to, a trainer, a second, or any other individual who attends the participant during a match;

13. "Exhibition" means a boxing match in which the participants show or display their skill without necessarily striving to win, such as sparring;

14. "Judge" means an individual other than a referee who shall have a vote in determining the winner of any contest;

15. "Kickboxing" means any form of competitive pugilistic professional contest in which blows are delivered with the hand and any part of the foot. Such contests take place in a rope-enclosed ring and are fought in timed rounds;

16. "License" means a certificate issued by the Commission to participants of sanctioned professional boxing contests and professional exhibitions and is a mandatory requirement for participation in such events;

17. "Manager" means an individual who controls or administers the affairs of any professional boxer, including acting as a booking agent. "Manager" shall include the representative of a manager as defined by the Commission;

18. "Martial arts" means any form of karate, kung fu, tae kwon-do, or any other form of martial or self-defense art;

19. "Matchmaker" means an individual who brings together professional boxers or arranges professional boxing contests or professional exhibitions;

20. "Participant" means a professional who takes part in a professional boxing contest or professional exhibition;

21. "Pay-per-view telecasts of professional boxing events" means telecasts offered by cable television companies to subscribers at a cost in addition to the monthly cable television subscription rate. Such events shall include local and state professional boxing contests and professional exhibitions as defined in this section;

22. "Person" means any individual, partnership, limited liability company, club, association, corporation, or trust;

23. "Physician" means an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine;

24. "Professional boxer" means an individual eighteen (18) years of age or older who competes for money, prizes, or purses, or

who teaches, instructs, or assists in the practice of boxing or sparring as a means of obtaining pecuniary gain;

25. "Professional boxing contest and professional exhibition" means a boxing match conducted within this state in which the participants are persons who must be licensed pursuant to the provisions of the Oklahoma Professional Boxing Licensing Act;

26. "Professional wrestling" means noncompetitive combat in which two or more participants display their skill by executing blows, throws, or holds to the body of an opponent, and in which it is reasonable to anticipate that the participants strive to entertain rather than to win;

27. "Promoter" means any individual, whether a resident or nonresident of Oklahoma, or club or corporation, whether domesticated or not domesticated in Oklahoma, that produces or stages professional contests or professional exhibitions conducted within this state and shall include any officer, director, or employees as defined by the Commission;

~~27.~~ 28. "Pugilism" means boxing or the skill or practice of fighting with the fists;

~~28.~~ 29. "Purse" means the financial guarantee or any other remuneration or thing of value for which a professional boxer participates in a professional boxing contest or professional exhibition and shall include the participant's share of any payment received for radio broadcasting, television, including cable television, pay-per-view television, and closed-circuit television, and motion picture rights. "Purse" shall also include gate receipts and any other prizes;

~~29.~~ 30. "Ring official" means any individual who performs an official function during the progress of a professional boxing contest or professional exhibition including but not limited to timekeepers, judges, referees, and attending physicians;

~~30.~~ 31. "Sanctioning permit" means a permit issued by the Commission to promoters who make application for official approval of professional boxing contests and professional exhibitions;

~~31.~~ 32. "Sparring" means to engage in a form of boxing with jabbing or feinting movements, and the exchange of few heavy blows, such as occurs in a practice or exhibition boxing match;

~~32.~~ 33. "Telecast promoter", for purposes of Sections 621 and 622 of this title, means any promoter who shows or causes to be shown in this state a closed-circuit telecast of any professional boxing event, whether or not the telecast or event originates in this state. "Telecast promoter" shall not include a cable system operator;

~~33.~~ 34. "Trainer" means an individual who assists, coaches, or instructs any professional boxer with respect to physical conditioning, strategy, techniques, or preparation for competition, professional boxing contests, or professional exhibitions; and

~~34.~~ 35. "Vendor" means any individual, firm, organization, club, or corporation that participates in the conduct of a professional boxing contest or professional exhibition by offering for sale food or merchandise, including, but not limited to, wearing apparel, alcoholic and nonalcoholic beverages, souvenirs, and programs.

B. The Commission may define any term which is not defined in the Oklahoma Professional Boxing Licensing Act.

SECTION 32. AMENDATORY Section 3, Chapter 210, O.S.L. 1999 (3A O.S. Supp. 2000, Section 604.1), is amended to read as follows:

Section 604.1 A. There is hereby created, until July 1, 2005, in accordance with the Oklahoma Sunset Law, the Oklahoma Professional Boxing Commission, which shall be composed of ~~seven (7)~~ eight (8) members appointed by the Governor with the advice and consent of the Senate. Members initially appointed to the

Commission ~~shall be appointed by July 1, 1999,~~ and shall serve for a term of office as follows: two members shall serve ~~a term of one~~ ~~(1) year~~ terms ending June 30, 2000, ~~two~~ three members shall serve ~~a term of two~~ ~~(2) years~~ terms ending June 30, 2001, and three members shall serve ~~a term of three~~ ~~(3) years~~ terms ending June 30, 2002, as designated by the Governor. Thereafter, members appointed to the Commission shall serve for terms of three (3) years. Terms of office shall expire on June 30. All vacancies and unexpired terms shall be filled in the same manner as the original appointment and within sixty (60) days from the date of the vacancy. Members may be removed by the Governor for incompetence, willful neglect of duty, corruption in office, or malfeasance in office.

B. Members appointed to the Commission shall reside in this state and shall have the following qualifications:

1. Two members shall have experience as a professional boxer or in professional boxing promotions;
2. One member shall have experience as a professional wrestler or in professional wrestling promotions;
3. One member shall have experience in sports medicine;
4. One member shall have experience in the cable television business; and
5. ~~Two~~ Three members shall represent the public at large as lay members.

C. No member of the Commission or any person related to a member within the third degree by consanguinity or affinity shall promote, sponsor, or have any financial interest in the promotion or sponsorship of any professional boxing contest or professional exhibition while a member of the Commission.

D. The members of the Commission shall elect from their membership a chair and vice-chair to serve for one (1) year terms. A majority of the members shall constitute a quorum for the purpose of conducting the business of the Commission. The Commission shall

meet at least quarterly, and special meetings may be called by the chair.

E. The Commission shall comply with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Administrative Procedures Act.

F. All members of the Commission and such employees as determined by the Commission shall be bonded as required by Sections 85.26 through 85.31 of Title 74 of the Oklahoma Statutes.

G. Members of the Commission shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

SECTION 33. AMENDATORY Section 5, Chapter 240, O.S.L. 1994, as last amended by Section 5, Chapter 210, O.S.L. 1999 (3A O.S. Supp. 2000, Section 605), is amended to read as follows:

Section 605. A. The Oklahoma Professional Boxing Commission may employ an administrator of professional boxing licensing to oversee the organization and activities of the Commission and to ensure compliance with rules promulgated by the Commission on matters relating to professional boxing. The administrator shall perform such other duties as the Commission may prescribe. The salary of the administrator shall be set by the Commission within the limits prescribed by law. The position of administrator of professional boxing licensing shall be an unclassified position.

B. The Commission may employ an assistant to keep records of all proceedings relating to professional boxing and to preserve all books, documents, and papers belonging to the Commission. The assistant shall perform such other duties as the Commission may prescribe. The Commission may employ such other personnel as necessary, subject until January 1, 2002, to statutory full-time-equivalent (FTE) limits applicable to the State Department of Health.

C. ~~The~~ Until January 1, 2002, the State Department of Health and on and after January 1, 2002, the Entertainment and Sports Commission shall provide administrative support, including, but not limited to, office space, equipment, and furnishings, for the Commission and shall manage the Commission's funds. Persons employed by the Commission shall serve at the direction and pleasure of the Commission but shall, in all other matters relating to employment, be unclassified employees of the State Department of Health until January 1, 2002. Effective January 1, 2002, the Entertainment and Sports Commission shall provide administrative support for the Oklahoma Professional Boxing Commission but shall not exercise control or authority over employees of the Oklahoma Professional Boxing Commission except as specifically authorized by the Oklahoma Professional Boxing Commission.

D. The administrator, the assistant, and ~~any,~~ with the exception of medical personnel, all other employees of the Oklahoma Professional Boxing Commission ~~or any~~ and all persons related to ~~said~~ such employees within the third degree by either consanguinity or affinity shall be prohibited from promoting, sponsoring, or having any pecuniary interest in any professional boxing contest or professional exhibition regulated by the Oklahoma Professional Boxing Commission ~~with the exception of medical personnel.~~

SECTION 34. AMENDATORY Section 12, Chapter 240, O.S.L. 1994, as amended by Section 11, Chapter 210, O.S.L. 1999 (3A O.S. Supp. 2000, Section 612), is amended to read as follows:

Section 612. A. Before any sanctioning permit is issued to any promoter to conduct or hold a professional boxing contest or professional exhibition, the applicant shall file with the Oklahoma Professional Boxing Commission a security in the form of a bond, cash, certificate of deposit or other securities acceptable to the Commission, payable to the State of Oklahoma in an amount determined by the Commission, executed by the applicant and a surety company or

companies authorized to do business in this state, and conditioned upon the faithful performance by the promoter, which shall include but not be limited to the cancellation of a professional boxing contest or professional exhibition without good cause as determined by the Commission once the professional boxing contest or professional exhibition has been approved by the Commission.

B. The ~~bond~~ security required under this section shall guarantee the payment of all taxes, fees, fines, and other monies due and payable pursuant to the provisions of the Oklahoma Professional Boxing Licensing Act and the rules promulgated by the Commission, including, but not limited to, the payment of purses to the competitors, any contributions for required insurance, pensions, disability and medical examinations, the repayment to ticket holders of purchased tickets, the payment of fees to ring officials and physicians, and, in the event of the cancellation of a professional boxing contest or professional exhibition approved by the Commission without good cause, an amount determined by the Commission.

C. After issuance of a sanctioning permit to a promoter, the Commission may modify the amount of ~~bond~~ security required to ensure adequate and sufficient coverage for payments of taxes, fees, fines, purses, and other monies due and payable pursuant to the provisions of this section. Failure of any promoter to ~~secure~~ obtain modified ~~bond~~ security required pursuant to this subsection within such period of time as the Commission may prescribe, shall be grounds for revocation of the sanctioning permit of such promoter.

D. All ~~bond~~ proceeds of securities collected pursuant to the provisions of this section shall be placed to the credit of the Oklahoma Professional Boxing Licensing Revolving Fund.

SECTION 35. AMENDATORY Section 16, Chapter 240, O.S.L. 1994, as amended by Section 15, Chapter 210, O.S.L. 1999 (3A O.S. Supp. 2000, Section 616), is amended to read as follows:

Section 616. ~~A.~~ There is hereby created in the State Treasury a revolving fund for the Oklahoma Professional Boxing Commission to be designated the "Professional Boxing Licensing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received from fees, administrative fines, reimbursements, bond proceeds, and sale of materials, and shall include grants and gifts, pursuant to the Oklahoma Professional Boxing Licensing Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended until December 31, 2001, by the State Department of Health as directed by the Oklahoma Professional Boxing Commission, and after December 31, 2001, by the Entertainment and Sports Commission as directed by the Oklahoma Professional Boxing Commission for the purpose of implementing the provisions of the Oklahoma Professional Boxing Licensing Act; provided, any monies accruing to the credit of said fund in excess of Two Hundred Thousand Dollars (\$200,000.00) during any fiscal year shall be deposited to the credit of the General Revenue Fund of the State Treasury. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

~~B. The "Oklahoma Professional Boxing Licensing Revolving Fund" created for the Department of Labor is hereby abolished. On July 1, 1999, any unencumbered funds remaining in the Oklahoma Professional Boxing Licensing Revolving Fund shall be transferred to the credit of the Professional Boxing Licensing Revolving Fund. Any unexpended funds remaining in the Oklahoma Professional Boxing Revolving Fund after November 1, 1999, shall be transferred to the credit of the Professional Boxing Licensing Revolving Fund.~~

SECTION 36. AMENDATORY Section 1, Chapter 305, O.S.L. 1993 (74 O.S. Supp. 2000, Section 1223), is amended to read as follows:

Section 1223. ~~The Oklahoma State Bureau of Investigation~~  
Entertainment and Sports Commission, or such other state agency  
which may be designated by the parties to a compact, is hereby  
declared to be the agency responsible, on behalf of the state, for  
monitoring and oversight for compacts relating to Indian gaming that  
are approved pursuant to Sections 1221 and 1222 of ~~Title 74 of the~~  
~~Oklahoma Statutes~~ this title.

SECTION 37. REPEALER 3A O.S. 1991, Sections 201, as  
amended by Section 3, Chapter 364, O.S.L. 1992, 203, and 204.1A (3A  
O.S. Supp. 2000, Section 201) are hereby repealed.

SECTION 38. Sections 1 through 6 and 31 through 35 of this act  
shall become effective September 1, 2001.

SECTION 39. Sections 7 through 30 and Sections 36 and 37 of  
this act shall become effective January 1, 2002.

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